ISSUES AND OPTIONS:

AN INTERIM REPORT ON MUNICIPAL ELECTIONS IN ONTARIO

A REPORT OF THE ADVISORY COMMITTEE ON MUNICIPAL ELECTIONS TO THE MINISTER OF MUNICIPAL AFFAIRS

AUGUST, 1986

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FOREWORD

In February, 1986, the Honourable Bernard Grandmaitre announced the formation of the Advisory Committee on Municipal Elections to conduct a review of, and make recommendations for, improvements to the local government electoral process in Ontario.

The Committee has focussed its attention on the following subject areas:

(a) Methods of enumeration and preparation of list of electors;

(b) Qualifications of electors;

(c) Nomination procedures including qualifications and eligibility of municipal candidates;

(d) Election campaign spending, fund raising and tax deductibility of contributions;

(e) Accessibility to voting, including voting hours, time of elections, absentee voting and access to polls for seniors and disabled electors;

(f) Preparation and conduct of elections, including training of municipal staff;

(g) Conditions and criteria for recounts;

(h) Voter turnout and voter awareness of local government, specifically, alternative ways of improving voter turnout, including educational and other non-legislative approaches; and

(i) Other matters that were considered relevant to the municipal electoral process.

Since its inception, the Committee has met with a number of associations, groups and individuals who offered valuable input to this report (Appendix A).

The Committee invited written submissions and comments from the local government sector and from the public. Over 200 letters and briefs were received from municipalities, school boards, local government associations and interested citizens, and the Committee wishes to thank them for their views and suggestions offered (Appendix B).

It should be emphasized that this report is an interim report only. It is being circulated to all Ontario municipalities, school boards, public utilities' commissions and their respective associations, as well as to other interested groups and individuals for their comments, prior to the drafting of the final report. As the final report is due in November, we ask that all comments be sent in writing no later than October 1, to the following address:

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CHAPTER ONE

INTRODUCTION

The Need for Local Government Electoral Reform

Prior to 1972, the provisions governing the local government electoral process were incorporated primarily within the Municipal Act. In 1972, the enactment of the Municipal Elections Act, to some extent, consolidated and simplified the rules governing local government elections. This significant change was the result of the recommendations put forward by two committees which were established in the 1960s and early 1970s to study the election laws of Ontario. These committees were the Select Committee on Election Laws (1968) and the Municipal Elections Committee (1970).

Since its original enactment in 1972, few changes have been made to the Municipal Elections Act. Most amendments dealt with procedural and administrative matters. Those pertaining to policy changes included the 1977 and 1982 amendments relating to the disclosure and to the regulation of municipal election campaign expenses and contributions; and the extension of the municipal franchise, in 1985, to judges, to those in psychiatric facilities, and to those in correctional institutions who are not under sentence.

On the whole, the current legislation has served its purpose. In recent years, however, a number of defects have become apparent; namely, problems have been reported with the enumeration process, the lack of clarity in the qualifications of electors, the counting of ballots and the conduct of recounts. Furthermore, the Act contains no provisions pertaining to the establishment of accessible polls for seniors and the physically handicapped or the special needs of ethnocultural voters. The Act does not address campaign financing issues, such as limits to candidates' expenditures or tax credits for campaign donations.

It is important, therefore, that the provisions and language of the Municipal Elections Act be updated to reflect the reality of the current municipal socio-cultural environment and to provide further clarity in the conduct and administration of elections. At the same time, there is a need to foster an awareness of the role and function of local government among its electors, as well as to encourage them to vote. Finally, the legislation must be as clear and as concise as possible, so as to avoid misinterpretation and abuse.

In this interim report, the Committee discusses a number of issues which were brought to its attention and provides recommendations or suggestions to make the local government electoral process fair, efficient and understandable.

CHAPTER TWO

ADMINISTRATION OF ELECTIONS

Introduction

In this chapter, the Committee considers the issues relating to the administration and conduct of elections. Among the issues discussed by the Committee are the training of elections staff, the size of polling subdivisions, the counting of votes, and the use of automated voting equipment, as well as the need for a single Act to govern the local government electoral process with a central agency to oversee and coordinate the administration of that process.

One Act

Although municipal elections are primarily governed by the Municipal Elections Act, some provisions pertaining to municipal elections are contained in other Acts. For instance, the Municipal Act and the Education Act set out the qualifications of candidates for municipal councils and school boards, respectively. The Fluoridation Act, the Liquor Licence Act, and the Municipal Act all contain provisions relating to plebiscites or municipal questions. The Committee believes

that a single Act, written in plain language, should govern the local government electoral process. This would simplify the administration and conduct of elections, and would provide electors and candidates with a clear and precise reference document.

Recommendation 2: 1 **The Committee recommends that all provisions pertaining to the municipal electoral process be consolidated within the Municipal Elections Act, and that its language be updated and modernized.**

Ontario Municipal Elections Commission

Under section 3 of the Municipal Elections Act, the clerk of the municipality is the returning and revising officer. The clerk is in charge of the administration and conduct of the elections in his/her municipality. A number of those who met with the Committee indicated that a central body to oversee the municipal electoral process would be desirable. Such a body could co-ordinate training for municipal election officials, provide information for new or potential candidates, and produce handbooks for both candidates and incoming councillors to assist them in becoming aware of the municipal electoral process and the workings of local government. Since the demise of the Bureau of Municipal Research and the Queen's University Institute for Local Government, there is no longer

any independent local government research organization in Ontario to provide information to the public or to study issues of importance to the municipal electoral process. It was suggested that the Commission could: (a) initiate and conduct election studies; (b) provide information and assistance to any person regarding municipal elections; (c) hold information meetings and conferences for the benefit of municipalities, the media and the public; (d) co-operate with the Chief Election Officer of Ontario and the Chief Electoral Officer of Canada in the production and development of public awareness programs and information packages relating to the electoral process; (e) develop training materials and programs for election staff; and (f) be responsible for the general administration of the legislation.

The Committee believes that the central body should be modelled on the Commission on Election Finances (Ontario). Its members should be appointed, in part, on the recommendation of the local government sector, and must be private citizens during the term of their appointment, i.e., not elected or appointed local government officials. Financial and human resources should be provided by the Ministry of Municipal Affairs. Ministry staff should be seconded to provide administrative and support services to the Commission. The Committee also believes that a Municipal Elections Officer should be appointed to oversee the day-to-day affairs of the Commission, to be

responsible for the overall administrative conduct of the elections, and to act as Secretary of the Commission. The Municipal Elections Officer should be appointed by Cabinet on the recommendation of the Minister of Municipal Affairs, and should be an employee of the Province. The municipal clerks would continue to be the returning and revising officers as they are at present.

Two provinces, New Brunswick and Nova Scotia, have a municipal elections officer. In all other jurisdictions, the situation is similar to Ontario (Table 1). In New Brunswick, the Chief Electoral Officer and the Assistant Electoral Officer are responsible for the administration and conduct of both provincial elections and municipal elections. The Minister of Municipal Affairs of New Brunswick has the authority to appoint a deputy municipal electoral officer for each municipality and the same person may be assigned the responsibility for more than one municipality. All other election officials are appointed by the Municipal Electoral Officer.

In Nova Scotia, the Municipal Elections Officer is appointed by the Provincial Cabinet and is an employee of the provincial public service. Returning officers are appointed by municipal councils, unless a school board election involves more than one municipality and the municipalities involved are unable to agree on the designation. Should this occur, the Minister makes the appointment.

Recommendation 2: 2 The Committee recommends that the Government of Ontario establish a commission, tentatively named the Ontario Municipal Elections Commission, composed of:

(a) one nominee from each of the Association of Municipalities of Ontario, the Ontario School Trustees' Council; the Municipal Electric Association; and the Association of Municipal Clerks and Treasurers of Ontario, appointed for a five-year term by the Lieutenant Governor in Council on the advice and recommendation of their respective Boards of Directors. The nominees of each association shall be private citizens. Re-appointments may be made for one additional term;

(b) a member of the Law Society of Upper Canada, appointed by the Lieutenant Governor in Council for a five-year term, and who may be reappointed for one additional term;

(c) the Chief Election Officer of Ontario, who shall be an ex-officio member;

(d) the Chairman of the Commission of Election Finances (Ontario), who shall be an ex-officio member;

(e) one person, who shall be a private citizen, appointed by the Lieutenant Governor in Council on the advice and

recommendation of the Minister of Education, for a five-year term and who may be reappointed for one additional term; and

(f) a Chairman, who shall be a private citizen, appointed by the Lieutenant Governor in Council on the advice and recommendation of the Minister of Municipal Affairs, for a five-year term and who may be reappointed for one additional term.

Recommendation 2: 3 The Committee recommends that the members of the proposed Commission, except those who are ex-officio members, be paid per diem allowances, with the exception of the Chairman, who shall receive a salary.

Recommendation 2: 4 The Committee recommends that the members of the proposed Commission shall not, during their term of office, hold any elected or appointed municipal, school board, or public utility office.

Recommendation 2: 5 The Committee recommends that the powers and duties of the proposed Commission include:

(a) the general administration of the municipal electoral process;

(b) assisting and advising returning and revising officers;

(c) coordinating the training of election officials;

(d) producing publications to assist election officials in discharging their duties and responsibilities;

(e) conducting studies on the municipal electoral process;

(f) producing publications to assist the public to become more aware of local government;

(g) producing publications to assist candidates and newly elected councillors; and

(h) organizing meetings and conferences for the information of election officials, municipalities and the public.

Recommendation 2: 6 The Committee recommends that, upon the advice and recommendation of the Minister of Municipal Affairs, the Lieutenant Governor in Council appoint a person, who is employed in the Ontario public service, to the position of Municipal Elections Officer, and Secretary of the proposed Commission.

Recommendation 2: 7 **The Committee recommends that the duties and responsibilities of the Municipal Elections Officer include:**

(a) direction and supervision of the administrative conduct of elections; and

(b) issuing to returning officers such instructions as are considered necessary to assist in the effective execution of the provisions of the legislation.

Recommendation 2: 8 **The Committee recommends that municipal clerks continue to be the returning and revising officers.**

Recommendation 2: 9 **The Committee recommends that adequate human and financial resources for the operation of the proposed Commission be provided by the Ministry of Municipal Affairs.**

Training of Election Staff

The Committee received a number of briefs stating that there is a need to train election staff. In a survey conducted by the Advisory Committee of Municipal Clerks of the Association of Municipal Clerks and Treasurers of Ontario, it was found that in the majority of municipalities, 40 to 50 per cent of the poll personnel were inexperienced. The high turnover of poll

personnel appears to be related to the absence of traditional human resources, namely, the conscientious and well-organized housewives who used to be Deputy Returning Officers (DRO's) and poll clerks, but are now in business and not available for such employment.

Currently, the training of election staff comes under the purview of municipal clerks. The provincial role in this area is limited to conducting seminars for clerks on the electoral process. Municipal clerks subsequently train DRO's. Election staff training varies from municipality to municipality. For example, in the City of Toronto, DRO training includes a booklet for trainees to study, a slide presentation and a two-part lecture. Role playing is part of the training for supervisors of DRO's and poll clerks. It teaches them how to deal with difficult voters. DRO trainees are also required to fill out approximately 14 forms as part of their training, and they are evaluated on the results. In the City of Mississauga, training includes a review of problems which election staff might encounter, drawn from the experiences of previous elections.

A number of suggestions were made to the Committee regarding the training of election staff. These include the development of:

a training course on the conduct of elections for all election staff;

a manual for election staff;

a video training program for individual DRO's with a slide version for group training; and

some form of test or standards of qualification for election staff.

Recommendation 2: 10 **The Committee recommends that the proposed Commission and the Ministry of Municipal Affairs, in cooperation with the Association of Municipal Clerks and Treasurers of Ontario, develop a manual for the training of election staff, a course on the conduct of elections and other training tools, including both printed material and audio-visual presentations.**

Recommendation 2: 11 **The Committee recommends that the proposed Commission establish guidelines respecting the recruitment of municipal election staff.**

Polling Subdivisions

Under the current provisions of the Municipal Elections Act,

the municipal clerk is required to divide the municipality into polling subdivisions consisting, as far as practicable, of not more than 350 electors and to advise the Regional Assessment Commissioner of the boundaries established for the subdivisions. A number of submissions received by the Committee have stressed the need for coterminous polling subdivisions for all three levels of government. Federal legislation requires that each polling division contain approximately 250 electors. The Election Act (Ontario) simply requires the returning officer to divide his/her electoral district into urban and rural polling divisions, as directed by the Chief Election Officer of Ontario. The legislation also requires the returning officer to review his/her electoral district as to population distribution on an annual basis, or as directed by the Chief Election Officer of Ontario, and in collaboration with the local municipal clerk, to make any adjustments required to polling division boundaries. A review of other jurisdictions' legislation indicates that, in the majority of cases, at the municipal level the size of polling divisions is not stipulated. However, at the federal and provincial levels, with the exception of Ontario, the number of electors for each polling division varies between 175 and 450 (Table 2).

<u>Recommendation 2: 12</u> **The Committee recommends that the proposed Commission, in cooperation with both the Chief**

Electoral Officer of Canada and the Chief Election Officer of Ontario, study the feasibility of establishing coterminous polling divisions.

Recommendation 2: 13 **The Committee recommends that the Municipal Elections Act be amended to require the municipal clerk to divide the municipality into polling subdivisions and to inform the Regional Assessment Commissioner of the boundaries of each subdivision no later than the 15th day of January in an election year.**

Counting of Votes

A number of problems arose subsequent to the 1985 municipal elections relating to improper counting of votes. The complexity of municipal elections places considerable stress on poll personnel. Municipal poll personnel do not deal with one ballot as do their federal and provincial counterparts, but with multiple or composite ballots. Municipal electors of all municipalities vote for a head of council (mayor or reeve), councillors or aldermen, and public or separate school trustees. In some municipalities they may also vote for a reeve, a deputy reeve, a regional councillor, controllers or public utilities' commissioners.

Assuming that 200 out of the 350 electors of a polling subdivision vote, and that there are at least 3 elected offices, it is possible that, at the closing of the polls, election personnel could be required to count at least 600 ballots, at a time when their level of efficiency is low. In one case, it took six hours to count the ballots at one poll where the turnout was 82 per cent.

The Committee has received various suggestions for improving the counting process, including the use of a second shift of election personnel to perform the counting, the use of optical scanners and centralized counting, the counting of the ballots on the day after polling day, and the use of municipal staff to count the votes.

The Committee believes that, while centralized counting could have avoided a number of the errors made during past elections, such a system has a number of disadvantages. The transportation and security arrangements for delivery of ballots to a central location for counting following the closing of the polls would be time consuming. Moreover, the DRO's would have to take time to account for the ballots before they are shipped to a central location. Thus, instead of saving time, it could extend the time required to complete the count by two to three hours depending on the size of the municipality. Centralized counting by hand is not feasible; it

would only be viable if the counting were done by machine. If the counting were to be done by a second shift, or on the following day, valuable press coverage would be lost, and there would be objections from candidates anxious to learn whether they were successful. An expert in municipal elections who appeared before the Committee estimated that it would take a second shift at least three hours to complete the counting manually, but was of the opinion that a mechanical counter could make the process faster and more accurate.

A number of individuals who met with the Committee supported the idea of a second shift to count the ballots, particularly as DRO's may be either tired or in a rush to finish the job quickly, when the polls close.

Automated Voting Equipment

Vote Recorders

The current paper ballot system raised a number of concerns subsequent to the November 1985 elections. For example, votes on ballots are open to interpretation; and errors were made in the tallying of the votes, such as transposition of figures. In order to address these concerns, the Committee looked at a number of alternatives to the paper ballot system. According to a report prepared by the Metro clerks, four types of

automated voting systems are available. These are punch card - datavote; punch card - votomatic; lever and push button machines; and optical scanners. The major advantages of such systems are that they provide fast and accurate ballot tabulation, and are reliable and durable.

Municipalities which have used vote recorders in the past have encountered a number of problems. Some people prefer the paper ballot; some do not push the card down firmly enough to register their votes; others forget to turn over a page to vote for hydro commissioners, etc.; and there have been problems resulting from the storage of the cards in damp basements, which has resulted in unuseable ballots.

The political downside of the use of present vote recorders is that there is no name on the ballot which goes into the ballot box. Many people object to this. Names now can be printed on the cards; however, the print would be very small and difficult, especially for senior citizens, to read. Moreover, once there are in excess of 19 candidates' names on each side, (i.e., over 38 candidates) a second ballot would be required. Demonstrators are required in each poll to show the voters how to use the vote recorders, before they vote. The advantages of the vote recorders is that the number of polls could be reduced and that there would be no problem if there were a power failure, as far as voting goes. A power failure would delay the counting.

Optical Scanners

A number of individuals who met with the Committee believe that the optical scanner system is a viable alternative to vote recorders and other systems. It uses ballots which are similar to those currently in use. On election night, the ballots could be run through the machine at the poll or could be gathered together in a central location and run through the machine, which would be pre-programmed as to what to accept. Scrutineers would be present to witness the validity of the ballots. The major drawback to the use of optical scanners is their cost. Estimates range between $500,000 and $2,000,000. The cost of other voting machines is less but the initial capital outlay is high and payable in U.S. funds, since no Canadian company makes such equipment.

Feasibility of Automated Voting Equipment

In order for automated voting equipment to be cost effective, it would have to be used by most municipalities and would have to be used for purposes other than municipal elections. Under the present circumstances, the equipment would be used only one day out of every three years. If the province were to buy the equipment, and to share its use with municipalities, it might be feasible for a company which manufactures such equipment to set up a subsidiary in Ontario to produce and service the machines.

It is the Committee's view that the elimination of human error in the counting process could be achieved by automated voting and tabulation equipment. We realize that, at the present time, the necessary equipment is prohibitively expensive, as it is not manufactured or serviced in Canada. The Committee believes that a concerted effort on the part of the two senior levels of government, with the support of the municipalities, would provide an incentive for the establishment of a Canadian enterprise to produce suitable equipment at a reasonable cost. At the same time, an effort must be made to familiarize the electorate with the use of automated voting equipment, so as to alleviate its fears.

Recommendation 2: 14 **The Committee recommends amending the legislation in order to provide that the returning officers may use a second shift of poll personnel to assist in the counting of ballots.**

Recommendation 2: 15 **The Committee recommends that the proposed Commission and the Chief Election Officer of Ontario study the use, acquisition and financing of automated voting systems and counting equipment for general use in private and public elections in Ontario and that guidelines be established for those who wish to participate.**

TABLE 1

Administration and Conduct of Municipal Elections

Jurisdiction	Conducted By	Appointed By
Alberta	Returning Officer	Municipality/School Board
British Columbia	Municipal Clerk	Statute
Manitoba	Revising Officer Returning Officer	Local Authority
New Brunswick	Municipal Electoral Officer and Assistant Municipal Electoral Officer	Statute
	Deputy Municipal Electoral Officer	Minister
Newfoundland	Municipal Clerk	Council
Northwest Territories	Returning Officer	Council
Nova Scotia	Municipal Elections Officer	Provincial Cabinet
Ontario	Municipal Clerk	Statute
P.E.I.	Returning Officer	Council
Quebec	Returning Officer	Statute
Saskatchewan	Municipal Clerk	Statute
Yukon	Returning Officer	Council

TABLE 2

Size of Polls Under Canadian Elections Acts

Jurisdiction	Municipal Elections	Provincial Elections	National Elections
Canada			250 electors; in large divisions, between 175 and 350 electors
Alberta	no limit	450 electors	
British Columbia	no limit	400 electors	
Manitoba	no limit	approximately 250 voters, but not more than 350 voters; in large subdivisions, not more than 400 voters	
New Brunswick	350 voters	350 electors	
Newfoundland	no limit	275 electors	
Northwest Territories	no limit	between 175 and 350 electors	
Nova Scotia	700 electors	400 electors; where special circumstances, some multiple of 400 electors	
Ontario	350 electors	no limit	
P.E.I.	no limit	300 electors; where special circumstances, some multiple of 300 electors	
Quebec	300 electors, except where Municipal Code applies, then no limit	300 electors	
Saskatchewan	no limit	350 electors	
Yukon	no limit	300 electors	

CHAPTER THREE

VOTERS' LISTS

Introduction

The preparation of the list of electors is a vital part of the electoral process. Lists of electors are prepared through an enumeration, conducted for the purpose of identifying and recording the names of those entitled to vote in municipal elections. In every municipal election, candidates and the public complain that many persons have not been enumerated or have not been enumerated correctly and that their names, therefore, do not appear on the preliminary list of electors. The suggestion most frequently made is that the Province should abandon this process and institute some form of permanent voters' list. In this chapter, we review the existing system and look at other systems of preparing the lists of electors.

Ontario Experience

History

Prior to 1970, the assessor was a municipal employee, and until 1972, the assessment roll contained information directly

related to the electoral status of property owners, tenants and occupants. The census was a continuous process in most municipalities. In most cases, the assessor was directly responsible for census data collection, although some jurisdictions hired casual staff to function as "data collectors" or "enumerators". The scope of the information collected through the census at that time was significantly wider than the present municipal enumeration.

In addition, the pre-1970 assessment roll contained information identifying occupation, place of employment, determination of juror eligibility, tax class coding, land use coding, property descriptions, rental status, building descriptions, and the number of dogs and other data, as well as assessed values. In 1970, the Province assumed responsibility for assessment and for enumeration.

With the enactment of the Municipal Elections Act in 1972, and its extension of the franchise to all residents without reference to property ownership, the process of preparing for municipal elections was, to some extent, simplified. Provincial standards were established for qualifications of electors, polling day and the preparation of preliminary lists of electors. However, until 1977, the entitlement to vote on money by-laws was still restricted to assessed owners, tenants and corporate nominees.

In 1981, school tax support was again identified on the assessment roll, as it had been prior to 1972, but there was a shift away from annual enumerations, for both financial and administrative reasons. Transfer payments to municipalities shifted, by 1984, from a population basis to a household basis. A lesser need was perceived for enumeration in non-election years and annual enumerations were discontinued.

Until 1980, enumeration was an annual operation. Now, enumerations are conducted every three years, in conjunction with municipal elections. Today's enumeration serves five separate functions: (a) the preparation of jury lists; (b) the preparation of provincial censuses; (c) the identification of school tax support; (d) the updating of tenancies on the assessment roll; and (e) the preparation of preliminary lists of electors.

Structure of Enumeration

Thirty-one Regional Assessment Offices, located throughout the province, are responsible for enumeration, under the guidance and coordination of the Field Operations Branch of the Ministry of Revenue. Each regional office hires, trains and equips its own casual staff to conduct enumerations, and maintains a list of experienced staff available for employment as enumerators. These lists are supplemented by referrals from municipal

officials and other sources. The level of staffing required for the entire province has remained constant at between 10,000 and 10,500 casual employees, since 1982. In 1985, 10,371 enumerators were hired.

Enumerators receive training fees and payment per name. Per name rates vary according to population density.[1] Enumerator training consists of a single session, varying in length from four to six hours, at which instruction is provided on the purposes of enumeration, the completion of forms, the coding of enumeration data and the procedure for doorstep interviews. In 1985, the first training video was produced. Training sessions may include role playing. Training seminars are held in the cities in which the Regional Assessment Offices are located during the week prior to the commencement of the enumeration, except in northern areas, such as Thunder Bay, where they may be scheduled a week or two earlier.

The assessment data base provides a starting point for enumeration. There are 11.8 million names on the data base which must be reviewed for voting qualification. Prior to 1978, this had to be done manually, and was a tiresome process, involving much duplication. In 1978-79, the process was computerized. The process is tightly governed by legislation, which provides specific dates by which the various phases must be completed.

Section 19 of the Municipal Elections Act requires that the enumeration commence on the Tuesday following Labour Day and end on the 30th day of September of an election year. A week before Labour Day, the Ministry of Revenue places advertisements in all daily, weekly and ethnic newspapers. A second advertisement is placed in the daily press on the first day of enumeration. During the enumeration period, enumerators must collect the data, and preliminary lists of electors must be prepared and forwarded to municipal clerks on or before the 31st day after the commencement date of the enumeration period.

The enumerators call at 3.2 million residential units of all types within municipalities and school board areas, including those in unorganized territory. They start on the Tuesday following Labour Day and must complete their calls 11 days later; i.e., by the Saturday of the following week. In the 1985 enumeration, calls at 3.2 million residential units generated 3.3 million changes of some sort (in address, age, citizenship or name, including misspellings).

Each enumerator calls at approximately 300 residential units. Most enumerators are housewives, retired or unemployed people. The Ministry of Revenue seeks the support of municipal officials in providing lists of DRO's and poll clerks who might be interested in being enumerators. The Ministry had difficulty finding enough enumerators in 1985. A number quit

following hostile encounters with the public. The enumerators are supplied with preprinted Municipal Enumeration Notices which are up to date as of late August. Some enumerators work primarily in daylight hours; others work in the evening, especially in urban areas where few residents are home during the day.

Enumerators are required to make at least two calls at each residence to attempt to obtain the required information. A responsible adult, present when the enumerators call, is an accepted source of information. A signature is required to acknowledge receipt of the Municipal Enumeration Notice and to authorize changes. In the event that no contact is made, the enumerator either leaves the Municipal Enumeration Notice with a return envelope and a call notice or, where no mailbox is available, returns the form to the assessment office where it is mailed. Under these circumstances, the residents are requested to return the notice, with the appropriate changes, to the assessment office.

Enumerators are required to complete and return their work as quickly as possible. They work on Saturdays and up to 9:00 p.m. The first batch of detailed work turned in by an enumerator is generally checked for accuracy by an assessor. Clerical assessment staff review and edit the enumerators' work and enter it on the data base. For assessment offices where

there is no on-line system, the data are sent to data processing firms for entry. In 1985, the assessment staff worked 16-hour days, seven days a week, in order to process all the changes. The elimination of discrepancies between the assessment roll and the enumeration data and the verification process are extremely time consuming.

The Ministry of Revenue recognizes the clerks' need to receive the preliminary voters' lists in time for printing. Preliminary voters' lists take longer to print than other lists, due to the high quality of the printing required; e.g., ribbons have to be changed frequently. Other information, such as that required for jurors' lists, has to be produced within the same time frame. In 1985, eight days were required to produce the preliminary voters' lists.

Advantages and Disadvantages

The Committee agrees with the comments contained in many of the briefs received that the current enumeration process has a number of shortcomings. The most frequent complaint has been that enumerators have missed entire polling subdivisions and thus persons have not been identified and recorded as electors. In discussions with officials from the Ministry of Revenue and others, we have come to the conclusion that the

present enumeration process has some definite advantages and disadvantages.

The advantages and disadvantages of the current system can be categorized as follows:

Advantages:

1) The computerized data required for assessment purposes provide the information necessary to identify electors;

2) The assessment staff has many years of experience and calls on property owners and tenants in conjunction with its essential function of assessment;

3) Central purchasing provides cost effectiveness in supplies and data processing;

4) Centralized administration provides consistency and a regional network is in place; and

5) The checks and balances built into the assessment system prevent major errors in enumeration.

Disadvantages:

1) The enumeration period is too short to permit extensive audits;

2) Sociological changes are making the enumeration more difficult to conduct. Enumerators are more difficult to find, and residents are less willing to provide information;

3) The process of door-to-door enumeration is exceedingly difficult to supervise, and it is therefore difficult to eliminate errors;

4) The relationship between the election-related functions of enumeration and the other information collected adds complexity to the process; and

5) Enumerators are unable to make contact at 15 per cent of the residential units, and only 15 per cent of the notices left at these units are returned. There is always a "hard core" group who will never respond. Some residences do not have mail boxes or any place where notices may be left. The rate of response to mailed-out non-residents' notices is low.

Satisfactory electoral and enumeration processes have at their roots a well-informed and concerned electorate. Many of the deficiencies can be attributed to a lack of elector interest. For example, for every one of the complaints filed with the Ministry of Revenue in 1985, the problem could have been resolved if the elector had checked the preliminary list of electors.

While enumerators are trained for one full day immediately before the start of enumeration, the process is sufficiently complex that they may have forgotten some of the details by their first day on the street. Every effort is made to scrutinize the first batch of returns submitted by each enumerator closely; however, errors are still made.

The Municipal Elections Act provides 31 days for enumeration and delivery of the list. In practice, the field work must be substantially completed, province-wide, by the 11th day. If this is not accomplished, the data cannot be entered in time to produce the preliminary lists of electors by the statutory deadline.

Also, it is important to bear in mind that the list produced by the Ministry of Revenue is a <u>preliminary</u> voters' list. There are too many and too frequent changes in today's environment for the Ministry to produce a final list. Therefore, the responsibility for revision and correction of the preliminary

list rests with the individual to ensure that, during the revision period, his/her name is accurately recorded on the list by the municipal clerk. Accordingly, it is our view that the success of the enumeration process and the preparation of the preliminary list of electors depend mainly on the cooperation of the public.

Experience in Other Jurisdictions

Other Provinces

In most jurisdictions across Canada, including the federal level, lists of electors are produced through door-to-door enumeration. After the lists are compiled, a period is allowed for revisions. Alberta and Quebec conduct annual enumerations and the lists are revised prior to an election. (Tables 1 and 2).

United States of America

The American system is based on the premise that voting should not be compulsory, and thus voter registration is voluntary. The system places the onus on the elector to ensure that his/her name is on the register. Electors must present themselves at a voter registration office whenever there is a change in their electoral districts or status. It is estimated

that about 60 per cent of the potential American electorate is registered. Many electors do not bother to report changes to the authorities responsible for maintaining the lists.

A recent study indicates that the percentage of registration is much lower for blacks, the poor and the young. It has been claimed that a large proportion of electors would never register if it were not for the operation of voter registration drives. Such operations are usually conducted by election authorities, assisted by community groups, e.g., service clubs, the League of Women Electors, Chambers of Commerce and labour unions. The most effective voter registration drives appear to be those conducted by the political parties themselves, as they wish to ensure that as many of their potential supporters as possible are registered.[2]

United Kingdom

The United Kingdom uses semi-voluntary voter registration, within a system of permanent "closed" electoral lists. Those lists are compiled once a year through the mail and by canvass, if necessary. The process is as follows. Every year, in October, the Electoral Registration Officers mail a form to the occupant of each household. The occupant is required by law to complete this form, and to update the names of all eligible electors resident within his/her household, and to return the

form to the officials. Those who fail to comply receive a reminder card. If they still do not reply, canvassers are sent to the household in an attempt to obtain the information required. This process continues until February 15th when the list is closed and is published. The list is in force for any election occurring at either the local or national level during the next 12 months. This system has a built-in provision to delete the names of deceased persons and add the names of those who come of age, but it provides no mechanism for revisions in respect of persons who move, marry or divorce.[3] As the Third Report of the Select Committee on Election Laws (Ontario) stated,

> "the permanency of this so called 'permanent list' is not because of its enduring accuracy, but because it is conclusive. If an elector's name does not appear on the permanent list, there is no way in which he can have the list revised during its twelve months' lifetime, or otherwise render himself eligible to exercise his franchise".

It was also noted by the Select Committee on Election Laws that, as of the date of coming into force, the list is considered to be 96 per cent accurate. As time passes and electors change their place of residence, the list's accuracy decreases. Thus, towards the end of its life, the list is

likely to be out of date. Changes average about 15 per cent per annum. To compensate for changes and to guarantee the right to vote, British legislation provides that electors who move away from their electoral district may cast their votes simply by returning to their original electoral districts and polling subdivisions on polling day, or they may apply for a postal vote. The Select Committee on Election Laws concluded that such a system would not be appropriate for Ontario because population mobility would make the list very inaccurate, as the rate of change is estimated at about 30 per cent annually; and as the people of Ontario are not accustomed to such procedures, it would lead to many objections.

Western Europe

West Germany, Sweden and Switzerland require their citizens to register with the state, and there are penalties provided for non-compliance. For example, in West Germany, individuals are automatically added to the voters' list on reaching voting age. West German law requires that each citizen moving from one city or town to another fill out a special set of forms, often called "police forms". These forms are filed at the local police station, with copies forwarded to the election office and to the population registration office.[4]

Australia

The Australians use "continual" voters' lists. Under Australian law, each person is required to notify the Registration Officer whenever he/she moves, has a change in marital status or reaches voting age. When a death occurs, the immediate family must make the notification.

The absence of a central population registry, such as that found in West Germany, makes the system more flexible. Electoral lists are less accurate than those produced in Germany, but more up to date than Great Britain's. The key difference between Australia's system and those found in Britain and continental Europe is the use of continual electoral rolls which are open to revisions throughout the year, until an election is called. Two mechanisms are in place to ensure that the lists are up to date. First, in addition to compulsory registration, the electoral office, each fall, conducts a door-to-door canvass. The role of the canvassers is not to enter names on the rolls; they simply visit every household to check the accuracy of the roll, and where persons have failed to register or report changes, the canvasser leaves an electoral claim card for the person to complete and submit to the electoral officer. In rural areas, electoral rolls are maintained through the assistance of postal officials or police officers. Following this annual check, any person who is not

registered is sent a notice that he/she has contravened the law. In recent years, the Australians have increasingly emphasized elector education rather than enforcement. However, without compulsory registration, the system would not be effective.[5]

A more important device for keeping the electoral lists up to date is compulsory voting. After each election, the names of those who failed to vote are checked and deleted from the list. The Select Committee on Election Laws felt that the "compulsory features of the Australian system would be repugnant to a majority of Ontario electors".

Alternatives

Permanent Voters' List

A number of briefs and presentations to the Committee expressed the need for some form of a permanent voters' list. Others indicated their preference for the current system of door-to-door enumeration, provided that the time frame for conducting the enumeration is extended. One of the major obstacles in respect of permanent voters' lists is the cost. In 1979, the Federal Chief Electoral Officer estimated that the cost of maintaining electoral lists based on the Australian model could exceed $30 million annually. A further difficulty

is that any master list would require the participation of all three levels of government. Moreover, the minimum voting age, citizenship qualifications, and residency qualifications would need to be standardized. Also, responsibility for the administration and maintenance of the master list would have to rest with one level of government. The problem of keeping the list up to date would remain. This could be difficult, as there are no fixed election dates at the federal and provincial levels. However, this might not be a problem for municipalities, as municipal election dates are fixed by statute. Population mobility could affect the accuracy of electoral lists at all levels.

Finally, the Canadian public may object to the concept of a permanent electors' list. There is reason to believe that it would not support the provision of address changes by an agency, such as Canada Post, to another agency established for the purpose of maintaining a permanent list of electors, on the grounds of government interference with the individual's right to privacy. In 1979, the Government of Quebec proposed to institute a permanent electors' list, but the project had to be abandoned, due to strong opposition from a number of groups, including the Official Opposition and the Quebec Human Rights Commission.[6]

The Committee is aware that both the Select Committee on Election Laws and the federal government, in its very recently released White Paper on Election Law Reform, have rejected the concept of a permanent voters' list. However, the Committee feels that the concept of a permanent voters' list should be given further consideration.

Recommendation 3: 1 **The Committee recommends that the proposed Commission, and the Ministries of Municipal Affairs and Revenue, in cooperation with the Chief Election Officer of Ontario, give further study to the concept of a permanent voters' list.**

Enumeration

The traditional criticism of the current enumeration process from both municipalities and the public has been that there is insufficient time to do the job properly, and that, as a result, large numbers of electors have had to be added to the list of electors on polling day. In particular, the lack of response to the enumerators' calls and the subsequent effect on the preliminary list of electors consistently cause problems. For most of the complaints brought to the attention of the Ministry of Revenue during the 1985 municipal elections, the primary reason was a lack of response to the enumerators'

calls, and the secondary reason was the electors' failure to verify the preliminary list of electors.

The objective of any reform of the municipal enumeration process must be to increase the accuracy of the lists. One of the major factors to be addressed must be the amount of time allotted to conduct the field enumeration and to prepare the preliminary list of electors. Some of the problems of the type encountered during the 1985 enumeration might be eliminated if the period allowed for the fieldwork were expanded.

The Committee believes that an improved preliminary list of electors would require an earlier time frame for the enumeration process. The Committee considered the summer months as a possible period for conducting enumerations. It was found that enumeration during the months of July and August is not desirable, as they represent the peak vacation period. Also, approximately one-third of the transfers of residential property occur in June, July and August. This mobility would add to the anticipated level of inaccuracy in the preliminary list of electors resulting from a summer enumeration. Of the other jurisdictions examined, Nova Scotia is the only province which conducts its municipal enumerations in the early summer months, prior to holding municipal elections in October.

There are a number of advantages to an earlier enumeration, for example, in the spring. The Committee believes that an earlier enumeration with a longer time frame would give the Ministry of Revenue ample time to collect and check the integrity of electoral data (Figure A). A larger pool of people would be available for employment as enumerators in the early summer; i.e., university and some high school students. Immediately prior to and during the enumeration period, advertisements should be placed in the media to ensure that the public is aware of the process. In cases where enumerators find no one at home, they could leave a notice behind with the request that electors provide updated information, including moving dates and future addresses, so that they will be listed correctly. The Committee also envisions a longer revision period to afford ample opportunity for electors to have corrections made to the list. Municipal clerks would have more time to submit changes to the Ministry of Revenue. Finally, municipal clerks would have more time to train election staff and advertise the elections.

The preliminary list of electors, as revised, would be the final and official list of electors. Only persons whose names appear on the list would be entitled to vote at either the advance polls or on regular polling day. The exceptions would be those persons whose names are omitted from the polling list as finally revised and election staff as currently provided by

sections 33 and 51 of the Municipal Elections Act. It is our view that any bona fide elector should make an effort to ensure that his/her name is properly listed. If it is not, then the elector should take the appropriate steps to have his/her name included on the list. We do not believe that on polling day electors whose names are not on the polling list and do not have a clerk's certificate should be able to demand a DRO's certificate at the polls, especially within a half hour of the closing of the polls. In past elections, there were some instances where polls were thrown into chaos by large numbers of requests for DRO's certificates.

Recommendation 3: 2 **The Committee recommends that the preliminary list of electors, as revised, be the final polling list, and except as provided by sections 33 and 51 of the Municipal Elections Act, no person shall be entitled to vote at a municipal election, unless his/her name appears on the revised polling list.**

Recommendation 3: 3 **The Committee recommends that enumerations take place between May 15th and June 30th of an election year; that the preliminary lists of electors be delivered by the assessment commissioners to the municipal clerks on July 2nd; and that the revision period begin on August 15th and end on September 15th.**

Recommendation 3: 4 The Committee recommends that the proposed Ontario Municipal Elections Commission and the Ministry of Revenue undertake a publicity campaign to inform the public of the changes and requirements proposed in Recommendation 3: 2.

TABLE 1

Federal, Provincial (Territorial) Enumeration Procedures

Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
Canada	between 38th and 32nd day before polling day	urban and rural enumerators (returning officer)	by 31st day before polling day	urban and rural enumerators (returning officer)	in urban polling divisions ex officio revising officer or substitute revising officer -certificate from returning officer in rural polling divisions -application to rural enumerator -oath	 17th days before polling day -after sittings of revising officer -19th day before polling day -polling day
Alberta	between Sept. 15 and 30 on 2nd year after last general election and each year afterwards till next general election	enumerators (returning officer)	by Sept. 30; list to be submitted within 5 days afterwards	enumerators (returning officer)	-application to returning officer -declaration before deputy returning officer -oath before deputy returning officer	-Thursday, Friday and Saturday of 2nd full week in October -advance vote -polling day

TABLE 1

Federal, Provincial (Territorial) Enumeration Procedures

Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
British Columbia	starting on 3rd Monday of Sept. in 2nd year after general election	enumerators (registrar general)	as soon as possible after closing day (i.e., 12 days after election writ issued)	registrar of voters	application to Court of Revision -registration application	by 15 days before closing day -except for polling day, not after closing day until after election
Manitoba	starting after election writ issued	enumerators (returning officer)	by 3 days before nomination day (i.e., between 29 and 14 days from date of writ)	enumerators (returning officer)	-application to revising officer -application by returning officer to Chief Electoral Officer -oath before deputy returning officer	-3rd and 4th day after nomination day -before polling day -polling day and advance vote
New Brunswick	from 14th to 10th day before nomination day	enumerators (returning officer)	by 10 days before nomination day	enumerators (returning officer)	in urban polling divisions -application to revising officer -certificate from returning officer -certificate from qualification officer	 -day after nomination day -after sitting of revising officer -polling day

TABLE 1

Federal, Provincial (Territorial) Enumeration Procedures

Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
New Brunswick (continued)					in rural polling division -representation to enumerator -oath	 -day after nomination day -polling day
Newfoundland	not stated	enumerators (revising justice)	period prescribed by revising justice before election day	enumerators (revising justice)	-application to Court of Revision -oath before deputy returning officer	-set by revising justice -polling day and possibly advance vote
Northwest Territories	between 35th and 30th day before polling day	enumerators (returning officer)	by 30th day before polling day	enumerators (returning officer)	-representations to returning officer -oath	-by 19th day before polling day -polling day
Nova Scotia	between 31st and 26th day before polling day	enumerators (returning officer)	by 25th day before polling day	enumerators (returning officer)	-registration by revising agents -application to revising officer in rural polling division -form sworn	-no time limit -12th and 11th days before polling day -polling day

TABLE 1

Federal, Provincial (Territorial) Enumeration Procedures

Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
Nova Scotia (continued)					before deputy returning officer in urban polling division -certificate from revising officer	 -polling day
Ontario	period designated by Chief Electoral Officer when election	enumerators (returning officer)	list prepared immediately after canvass and delivered by 4 days after appointment	enumerators (returning officer)	-special enumeration in urban polling division -complaint to returning officer -application to returning officer or revision assistant -certificate from returning officer -oath before deputy returning officer in rural polling division	-by 14th day before polling day -by 14th day before polling day -by day before polling day -probably polling day -polling day

TABLE 1

Federal, Provincial (Territorial) Enumeration Procedures

Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
Prince Edward Island	starting within 48 hours of issue of writ and ending within 7 days of the issue of the writ	enumerators (returning officer)	not stated	enumerators (returning officer)	-re-enumeration -oath before deputy returning officer	-no time limit -polling day
Quebec	from 4th Monday after Labour Day to Thursday of same week, unless July or August election in which case from Monday to Thursday of 5th week before polling day	enumerators (returning officer)	by Saturday of enumeration week	enumerators (returning officer)	-application to board of revisors in urban polling subdivisions -application to board of revisors or 2 revisors in rural polling subdivision -authorization from returning officer	-by Saturday of 3rd week before polling day -by Saturday of 3rd week before polling day -polling day and advance vote
Saskatchewan	not stated	enumerators (returning officer)	by 10 days after date of writ	enumerators (returning officer)	-application to enumerators -declaration	-4th day before polling day -polling day and possibly advance vote
Yukon Territory	not stated	enumerators (returning officer)	by 13th day after writ issued	enumerators (returning officer)	-application to revising officer	-18th and 19th after writ issued

TABLE 2

Municipal Enumeration Procedures

Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
Alberta	not stated	enumerators (elected authority or secretary or returning officer)	before election	secretary (elected authority)	declaration before voting station officer	election day and advance vote
British Columbia a) Generally	continuing register of electors	clerk (municipality)	by August 31 each year	clerk (municipality)	-application to Court of Revision -registration application to clerk or returning officer	-on October 1 each year until 20 days before election -polling day and possibly advance vote
b) Vancouver	for resident-electors, canvass in every election year, with June 15 as decisive date -for owner-electors, before August 8 in odd-years, with July 31 as decisive date	city clerk (city council)	for register of electors, before August 8 in election year; for list of electors, by Oct. 15 in election year	city clerk (municipality)	-for register of electors, revising judge -for list of electors, Stipendary Magistrate or County Court Judge -certificate, authorization or sworn affidavit	-between August 22 and 30 in election year -by October 30 in election year -polling day and advance vote

TABLE 2

Municipal Enumeration Procedures

Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
Manitoba (including Winnipeg)	not stated	assistant enumerators (enumerator)	by 4th Wednesday in August each year, election year or third year	assistant enumerator (enumerator) (local authority)	-placement by enumerator -application to revising officer -sworn affidavit before deputy returning officer	-by first Wednesday in September -one, two or three days before first Wednesday in September -polling day and probably advance vote
New Brunswick	not stated	not stated	immediately following first day of March in election year	Municipal Electoral Officer (province)	-application to Municipal Electoral Officer -identification statement and declaration	-before 24th day before polling -polling day
Newfoundland a) Generally (including Corner Brook)	not stated	not stated	from 2 months until 1 month before election	returning officer (municipality)	-satisfactory proof to returning officer -oath	-not stated, though, generally, 14 days and, for Corner Brook, 7 days after list completed for inspection -polling day and probably advance vote

TABLE 2

Municipal Enumeration Procedures

Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
Newfoundland b) St. John's	not stated	enumerators (city clerk)	before October 1st each election year	city clerk (municipality)	-declaration to city clerk	-any time up to polling day
Northwest Territories a) Present	not stated	not stated	by Sept. 15 each year	registrar (municipality)	-application to territorial judge -oath before deputy returning officer	-by October 1 each year -polling day
b) Proposed	not stated	enumerators (registrar)	by 30 days before election	registrar (local authority)	-application to registrar -declaration	-by 10 days before election -polling day and possibly advance vote
Nova Scotia	by May 31 in election year	enumerators and possibly registrar of voters	before July 31 in election year	returning officer (municipality)	-application to revising officer -form sworn before deputy returning officer	-by August 9 -polling day or advance vote
Ontario	first Tuesday in Sept. to Sept. 30 in election year	assessment commissioner (province)	by 31st day after enumeration starts	assessment commissioner (province)	-application to clerk or assistant revising officer	-by 19th day before polling day

TABLE 2

Municipal Enumeration Procedures

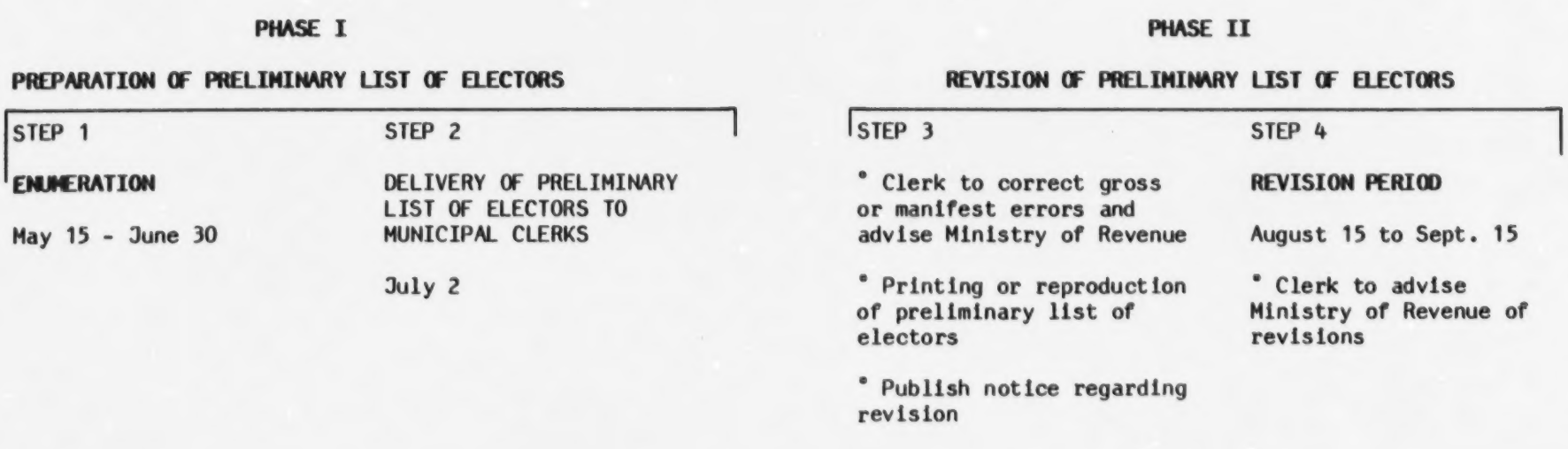
Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
Prince Edward Island (towns only)	not stated	not stated	by 21 days before election	town administrator (municipality)	-declaration	-at any time
Quebec a) Cities and Towns Act	not stated	enumerators (returning officer)	between publication date of election notice to next Oct. 1	returning officer (municipality)	-application to board of revision -attestation of returning officer or election clerk	-by October 8 -polling day
b) Municipal Code of Quebec	not stated	not applicable; instead, assessment roll	not stated, though decisive date is generally 15 days before last Sunday in October in election year	municipality	-application to revisory committee	-second last Sunday in Oct. in election year
c) Bill 100	not stated	enumerators (returning officer)	from Sept. 1 to 30 days before polling day in election year	returning officer (municipality)	-application to board of revisors -authorization from returning officer	-by 15 days before polling day -polling day

TABLE 2

Municipal Enumeration Procedures

Jurisdiction	Enumeration		List of Electors		Revision of List of Electors	
	Timing	Conducted By (Appointed By)	Timing	Conducted By (Appointed By)	How Elector is added	When Elector is added
Saskatchewan a) Urban and Northern Municipalities	not stated	enumerators (returning officer)	by 31 days before election day	returning officer (municipality)	-application to revising officer -voters' registration from enumerator or deputy returning officer	-by 22 days before election -polling day and arguably advance vote
b) Rural Municipalities	not stated	not applicable, instead, last revised assessment roll	by October 1 each year	secretary (municipality)	-notice to secretary -certificate from secretary -oath before deputy returning officer	-by October 10 -before polling day -polling day and probably advance vote
Yukon Territory	not stated	not stated, though provision for enumeration or registration system	by first Wednesday of September each election year	clerk (municipality)	-application to Board of Revision -authorization of clerk -registration application to returning officer or deputy returning officer	-by last Monday in September -no time limit -polling day and probably advance vote

FIGURE A


PHASE I
PREPARATION OF PRELIMINARY LIST OF ELECTORS
STEP 1
ENUMERATION
May 15 - June 30
STEP 2
DELIVERY OF PRELIMINARY LIST OF ELECTORS TO MUNICIPAL CLERKS
July 2
PHASE II
REVISION OF PRELIMINARY LIST OF ELECTORS
STEP 3
• Clerk to correct gross or manifest errors and advise Ministry of Revenue
• Printing or reproduction of preliminary list of electors
• Publish notice regarding revision
STEP 4
REVISION PERIOD
August 15 to Sept. 15
• Clerk to advise Ministry of Revenue of revisions

ENDNOTES

1. The following rates were in effect for the 1985 municipal enumeration:

Rural (15-50 acres per person)	$0.40 per name
Semi-urban (1-15 acres per person)	$0.32 per name
Urban (less than 1 acre per person)	$0.25 per name
Training	$35

2. White Paper on Election Law Reform (Canada), June 1986, hereinafter referred to as "White Paper"; The Third Report of the Select Committee on Election Laws (Ontario), June 1972, hereinafter referred to as "Election Laws".

3. Working Paper on Voter Registration: The Alternatives to Enumeration (Manitoba Law Reform Commission), May 1977, hereinafter referred to as "Working Paper".

4. White Paper.

5. Working Paper and White Paper.

6. White Paper.

CHAPTER FOUR

ELECTORS AND CANDIDATES

Introduction

The present provisions of the Municipal Elections Act create two classes of persons which are entitled to vote in an election in a given municipality: resident and non-resident electors. In past elections, a number of issues and problems have arisen with respect to who is a resident or non-resident elector. Also, concern has been expressed about the qualification of candidates. In this chapter, we attempt to address these issues.

Qualification of Electors

Evolution of the Municipal Franchise

The municipal franchise, historically, has been subject to three conditions: (a) ownership or tenancy of land, (b) some form of residency and (c) citizenship. Table 1 shows that between 1849 and 1972, provincial legislation required persons to have a minimum property value to be entitled to vote. At the same time, the legislation set out certain residency

qualifications for each class of electors. A householder/ tenant in order to vote had to be a resident of the municipality for six months prior to polling day, whereas a farmer's son had to have resided in the municipality for a period of 12 months immediately prior to completion of the assessment roll, and must have been a resident of the municipality at the time of the election. In addition to the conditions mentioned above, the municipal franchise was first restricted to males, then extended to unmarried women and widows, and, in 1917, to every person (Tables 2 and 3).

In 1972, the enactment of the Municipal Elections Act simplified the municipal franchise considerably by eliminating the minimum property value requirement, and created two categories of electors: resident and non-resident. The Act established the following criteria for electors: eighteen years of age; Canadian or British Subject; and residency in the municipality during the qualification period, or ownership or tenancy of land for non-residents during the qualification period.

The local government franchise was broadened, in 1985, to include in the list of qualified electors judges, inmates of psychiatric facilities, and persons in correctional institutions who are not under sentence of imprisonment (Bill 38, An Act to Amend the Municipal Elections Act). The

legislation also makes a change in the citizenship qualification. Effective July 1, 1988, British Subjects, unless they are Canadian citizens, will no longer be entitled to vote in municipal elections. It should be noted that these general qualifications apply to all local government institutions, except that, for school board purposes, the electorate is divided into public and separate school supporters. Recent amendments in the form of Bill 75, an Act to amend the Education Act, have created two more categories of electors, based on language rather than school support. These are: French language electors and English language electors. Thus, for school purposes, individuals will have to meet the general requirements and identify themselves as public school electors or separate school electors, and as French language electors or English language electors. While the pre-1985 liberalization of the qualifications and the residency requirements has extended the municipal franchise to every person, it has simultaneously posed a number of administrative difficulties and created the conditions for possible abuses of the franchise.

Definition of Person

The first area of concern for the Committee is the lack of a precise definition of the term "person". Neither the Municipal Act nor the Municipal Elections Act define "person" and it has

been suggested that a corporation or a personal representative of an estate should be entitled to vote.

This arises from the definition of the term "person" in section 30, paragraph 28 of the Interpretation Act, which includes in its meaning corporations, heirs, executors, administrators, or other legal representatives. The Municipal Elections Act includes in the qualifications of an elector the criteria of citizenship and residency, which may exclude a corporate entity from casting a vote. It is not clear whether such exclusion may apply to personal representatives of an estate. The Committee feels that the present legislative provisions need clarification so that it is explicitly stated that only individuals are entitled to be enumerated and to vote in a municipal election.

Recommendation 4: 1 **The Committee recommends that the Municipal Elections Act be amended to clarify the meaning of the term "person" and to exclude specifically a corporation, any representative of an estate, or trustee.**

One or Two Categories of Electors?

As noted earlier, the Municipal Elections Act has created two categories of persons entitled to vote in an election in a

municipality: resident and non-resident electors. The Committee considered whether there should be one category or two categories of electors, and under what condition citizens should be enfranchised.

A. Resident Electors

Section 12 of the Municipal Elections Act provides that, to be an elector in a municipality, a person must be resident in the municipality at any time during the enumeration period (early September to late October), be a Canadian citizen (effective July 1, 1988) and have attained the age of eighteen years on or before polling day. The Act, section 1, paragraph 34, currently defines the term "residence" as follows:

> " 'residence', and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning subject to the following rules:
>
> (a) the place where a person's family resides shall be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.

(b) The place where a person occupies a room or part of a room as a regular lodger or to which he habitually returns not having any other permanent lodging place, shall be deemed to be his residence."

Some have claimed that this definition of residence is too broad, and has created problems for the electoral process in areas with large seasonal populations. The following example, drawn from the Report and Brief on the 1982 Municipal Elections prepared by the Township of Muskoka Lakes illustrates this point:

"Consider a cottage owned by persons who are obviously non-residents and have their fixed place of residence elsewhere. These persons, however, have sons and daughters who are adults, and who spend a considerable period of time in terms of weekends and holidays staying at the cottage. The sons and daughters occupy apartments in other cities, and their places of work are in other cities. They feel, however, an emotional attachment to the area and therefore claim that they are residents, as they regard their parents' cottage as their 'true, fixed, permanent home or lodging place to which whenever they are absent, they have the intention of returning'."

On the surface, these persons would appear to qualify to vote under section 12 of the Act, although a person reviewing their normal activities and their relationship with cottage owners would probably regard them as non-residents.

It is the Committee's view that the Municipal Elections Act should be amended to state clearly that persons who occupy quarters or premises as a vacation home for a seasonal or temporary period should not be considered residents of the municipality, and therefore are not entitled to vote as such, but may be entitled to vote as a non-resident or owner/tenant of land. Persons who are occupying such quarters or premises in the course of earning a living or have no quarters in any other municipality would be defined as residents. Such a definition should be similar to that found in the Election Act (Ontario).

Recommendation 4: 2 **The Committee recommends that section 1, paragraph 34, of the Municipal Elections Act be amended by adding immediately following clause (b) thereof, the following clause:**

> **"(c) No person shall be deemed to be resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April, unless,**

(i) he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or

(ii) he has no quarters in any other municipality to which he might at will remove".

B. Non-resident Electors

Section 13 of the Act provides that the key criterion for entitlement to vote is ownership or tenancy of land in the municipality in lieu of residence. The spouse of such an owner or tenant can also vote. A person who owns or rents land in six different municipalities is qualified to vote in each municipality. This right should be continued because we are not talking of one elector to elect one government, as is the case in provincial and federal elections. There are 793 municipal elections to elect the same number of different and distinct municipal councils, and therefore all qualified electors in a given municipality should be permitted to vote.

Letters submitted to the Committee indicated that the term "tenant" had caused confusion and difficulty in municipalities with large seasonal populations in determining who was a tenant and entitled to vote under the provisions of section 13 of the Municipal Elections Act. During the past two municipal

elections, a number of administrative difficulties with the tenancy rules became evident. Some examples are:

Members of a gun club assumed the status of tenants of the club property to become eligible, with their spouses, to vote (and run for office) in a rural municipality.

Members of the Canadian Forces on short-term training courses at one Canadian Forces Base were enumerated (and, presumably, voted) in that area but left for their usual bases soon after the election.

Time-sharing resort establishments presented particular difficulties for municipal clerks and enumerators.

Occupants of trailer parks created administrative difficulties for municipal clerks and enumerators.

Definition of Tenancy: Variations

The Municipal Elections Act, section 1, paragraph 24, presently defines "owner or tenant" to mean "a person enumerated as owner or tenant of land separately assessed or liable to be separately assessed under the Assessment Act". The Municipal Elections Act adopts the definition of "tenant" provided in the Assessment Act, which includes an occupant and the person in

possession other than the owner. The Assessment Act provides that "... no portion of any building used ... as a residence shall be separately assessed unless it is a domestic establishment of two or more rooms in which the occupants usually sleep and serve meals".

The borrowing of the term tenant as defined in the Assessment Act to define electors for the purposes of the Municipal Elections Act may disenfranchise legitimate residents who are occupants of mobile homes or travel trailers within a municipality. Such persons may not be enumerated, as their mobile homes or travel trailers are not assessed as separate units under the Assessment Act. Accepting for the moment that such persons are tenants of land, the question boils down to whether the land that they occupy is liable to be separately assessed under the Assessment Act. If so, they are entitled to vote under section 13 of the Municipal Elections Act and if not, they are not entitled to vote under this section. Since the courts have ruled that mobile homes may be structures if affixed to the land with a degree of permanency, this may no longer be a source of difficulty (Johnston v. Sault Ste. Marie Board of Education et al.).

Residency Requirements

The Municipal Elections Act currently provides that a person is entitled to be an elector of a municipality if that person is a resident or a non-resident owner or tenant, or the spouse of such owner or tenant, and meets the age and citizenship requirements, at any time during the qualification period which, in 1985, began on September 3rd and ended on October 23rd. This flexibility tends to create difficulties in the determination of who is a qualified elector, especially in areas with large seasonal populations.

A review of the legislation pertaining to other municipal jurisdictions across Canada indicates that only Ontario and Newfoundland have residency requirements which are less than 50 days. As Table 4 illustrates, the other provinces and territories require their respective municipal electors to meet a substantial residency requirement before they are permitted to vote. Alberta, Manitoba, New Brunswick, the Northwest Territories, Nova Scotia, Prince Edward Island and Saskatchewan require the municipal elector to reside in the municipality for at least six months immediately preceding the election. Quebec and the Yukon provide a 12-month residency requirement and British Columbia requires a three-month residency period. The review also indicates (Table 5) that a substantial residency requirement is the norm for provincial electors across Canada.

The Committee considered five options regarding the qualification of electors:

Option A: Residents and Ownership of Land

A person is eligible to vote in a municipal election if he/she, at any time during the qualification period:

(a) is a resident of the municipality;

(b) is a Canadian citizen; and

(c) is 18 years old;

or, if non-resident, he/she

(d) is an owner of land in the municipality, or the spouse of such owner, and meets the requirements of citizenship and age.

This option would disenfranchise non-resident tenants of land, such as those who rent commercial properties in one municipality and reside in another, and their spouses. Also, such a change could be viewed as discriminatory under the provisions of the Charter of Rights and Freedoms.

Option B: Residents Only

A person is eligible to vote in a municipal election if he/she, at any time during the qualification period:

(a) is a resident of the municipality;

(b) is a Canadian citizen; and

(c) is 18 years old.

The proposed alternative would make residency the primary condition for exercising one's municipal franchise. The criteria would be similar to those found in other jurisdictions in Canada. The effect would be outright disenfranchisement of non-resident owners and non-resident tenants of land and their respective spouses.

Option C: Resident and Non-resident Vote (Provincial Residency)

A person is eligible to vote in a municipal election if he/she on polling day:

(a) is a Canadian citizen;

(b) has attained 18 years of age;

(c) has resided in Ontario for the six months immediately preceding polling day; and

(d) resides in the municipality;

or, if non-resident, he/she

(e) is an owner or tenant of land in the municipality, or the spouse of such owner or tenant, and meets the age, citizenship and Ontario residency requirements.

This option is similar to the current provisions of the Municipal Elections Act, except for the requirement that an elector must have resided, or have been an owner, a tenant of land, or the spouse of such owner or tenant, in the Province for a period of at least six months immediately preceding polling day. It is similar to the provisions found in the Election Act (Ontario).

Option D: Resident and Non-resident Vote (Municipal Residency)

A person is eligible to vote in a municipal election if he/she on polling day:

(a) is a Canadian citizen;

(b) has attained 18 years of age;

(c) has resided in the municipality for the six months immediately preceding polling day;

or, if non-resident, he/she

(d) is an owner or tenant of land in the municipality, or the spouse of such owner or tenant, and meets the requirements of age and citizenship; and

(e) has been the owner or tenant, or the spouse of such owner or tenant, for the six months immediately preceding polling day.

The requirements proposed under this option are similar to those discussed in Option C and those found in the current provisions of the Act, except that residency or ownership/ tenancy of land in the municipality is required for a period of at least six months immediately preceding polling day, for all electors.

Option E: Residents and Owners Only

A person is eligible to vote in a municipal election if he/she on polling day:

(a) has attained 18 years of age;

(b) is a Canadian citizen;

(c) has resided in the municipality for the six months immediately preceding polling day;

or, if non-resident, he/she

(d) is an owner of land in the municipality, or the spouse of such owner, and meets the requirements of age and citizenship; and

(e) has been the owner, or the spouse of such owner, for the six months immediately preceding polling day.

Under this option, non-resident tenants of land and their spouses are excluded from the municipal franchise. With the exception of the six month residency requirement, the proposed conditions are similar to those discussed under Option A.

It is the Committee's view that the present municipal franchise should be continued, as proposed in option D. As a condition of voting, in addition to age and citizenship requirements, a person must be a resident of the municipality, or a non-resident owner or tenant of land, or the spouse of such owner or tenant, within the municipality for a specific time period, in order to vote.

It has been suggested that the specified period be six months residency or ownership/tenancy of land in the municipality for persons to qualify as electors. The six-month requirement is proposed because it is consistent with the Election Act (Ontario) and the majority of the provinces and territories across Canada use such a period to determine both municipal and provincial qualification of electors. Also, by instituting a fixed and longer qualification period, the concept of residency is strengthened and administrative difficulties relating to the determination of who is entitled to vote in a municipal election are removed. Finally, bona fide persons who are non-residents; i.e., owners or tenants of land and their respective spouses, in municipalities with large seasonal populations would not be disenfranchised. This would also alleviate the problems arising from revisions to the list as these individuals would have been enumerated earlier.

Recommendation 4: 3 The Committee recommends that Option D be implemented, namely, that a person be eligible to vote in a municipal election if he/she on polling day:

(a) is a Canadian citizen;

(b) has attained 18 years of age;

(c) has resided in the municipality for the six months immediately preceding polling day;

or, if non-resident, he/she

(d) is an owner or tenant of land in the municipality, or the spouse of such owner or tenant, and meets the requirements of age and citizenship; and

(e) has been the owner or tenant, or the spouse of such owner or tenant, for the six months immediately preceding polling day.

Qualifications of Candidates

Present Requirements

Under the Municipal Act, section 37, a person is eligible to

run for municipal office and for the office of a public utilities' commissioner, if he/she is qualified to be an elector as defined in sections 12 and 13 of the Municipal Elections Act and is not disqualified by the provisions of section 38 of the Municipal Act. However, these provisions do not apply to persons running for school boards. The eligibility rules for school board trustees are set out in section 196, clause 1 of the Education Act, and are as follows:

"A person is qualified to be elected as a member of a board if he/she is,

(a) a Canadian citizen;

(b) eighteen (18) years of age;

(c) a resident within the area of jurisdiction of the board; and

(d) in the case of,

(i) a public school board, a public school elector

(ii) a Roman Catholic separate school board, a separate school elector..."

In addition to the above-mentioned requirements, a candidate for any office is required to file a nomination paper with the

returning officer. The Municipal Elections Act requires each candidate's nomination papers to be signed by at least ten electors. No other requirements are imposed on a candidate.

Fringe Candidates

A number of submissions and presentations made to the Committee suggested that existing requirements tend to enable anyone to put his/her name forward and to run for publicity or to publicize some personal cause unrelated to municipal affairs. It was agreed that such minimal requirements tend to take attention away from serious candidates. All-candidates' meetings become very theatrical and the public tends to lose interest in such gatherings. It was suggested that the process of running for office be tightened up by requiring candidates to: (a) post a deposit; (b) have their nomination papers signed by more than ten electors; (c) be residents of the municipality.

A number of the submissions and presentations made to the Committee favoured some form of candidates' deposit. The following are some of the suggestions made:

- $100 deposit, refunded at 10 per cent of the votes cast;
- $200 deposit, refunded at 10 per cent or 25 per cent of the votes cast;

- $500 deposit for candidates for head of council, and a $250 deposit for all other positions, refunded at 15 per cent of the votes cast; and
- $1,000 deposit, refunded at 50 per cent of the votes cast.

The Committee looked at other jurisdictions' requirements and found that some form of deposit is a condition for running for office at the provincial and federal levels. These deposits range from $100 to $200 and are refundable to the candidate if he/she obtains a certain percentage of the votes cast. The only jurisdictions that do not require any deposit for provincial elections are British Columbia, Manitoba and Quebec. The majority of the provinces do not require municipal candidates to post a deposit. Those that do require amounts ranging from $10 to $200. Also, all jurisdictions require nomination papers to be signed by electors. The number of signatures required varies between two and 100 (Tables 6 and 7).

The Committee also heard arguments to the effect that any form of deposit or an increase in the number of signatures required for nomination would constitute interference with the democratic right to elect and to be elected. It was pointed out that "fringe" candidates are an acceptable risk in a

democracy and that a $100 deposit could deter someone who has a valid point to make from running for municipal office.

The Committee feels that while a deposit and a higher number of signatures on nomination papers will not stop frivolous candidates from running, it may discourage some from running. Moreover, such requirements would send out a message that being a municipal candidate is a serious business. The members of the Committee also agree that any deposit should be returned to the candidate if he/she obtains at least 20 per cent of the total number of votes cast for the office and that the amount involved should vary, depending on the office.

Recommendation 4: 4 **The Committee recommends that the conditions for running for municipal office be strengthened by requiring a candidate in a municipality with a population of over 20,000**

(a) for the office of head of council, to deposit the amount of $200 at the time at which his/her nomination papers are filed with the municipal clerk; and

(b) for all other offices, to deposit an amount of $100 at the time at which his/her nomination papers are filed with the municipal clerk,

with the proviso that all deposits be automatically refunded to all candidates who receive at least 20 per cent of the total number of votes cast for each of the offices involved, and who have filed their statements of campaign contributions and expenses with the municipal clerk; and with the further proviso that all other deposits be retained by the municipality.

Recommendation 4: 5 The Committee further recommends that the nomination papers for a candidate in a municipality with a population of over 20,000, be signed by

(a) at least 100 electors for those running for the office of head of council; and

(b) at least 50 electors for all those running for all other offices.

Recommendation 4: 6 The Committee recommends that a candidate in a municipality with a population of less than 20,000 be required,

(a) if running for the office of head of council, to deposit an amount of $100 at the time at which his/her nomination papers are filed with the municipal clerk; and

(b) if running for any other office, to deposit an amount of $50 at the time at which his/her nomination papers are filed with the municipal clerk,

with the proviso that all deposits be automatically refunded to all candidates who receive at least 20 per cent of the total number of votes cast for each of the offices involved, and have filed their statements of campaign contributions and expenses with the municipal clerk; with the further proviso that all other deposits be retained by the municipality.

Recommendation 4: 7 The Committee further recommends that nomination papers for a candidate in a municipality with a population of less than 20,000 be signed by

(a) at least 50 electors for a candidate for the office of council; and

(b) at least 25 electors for a candidate for any other office.

Residency Requirements

A number of submissions made to the Committee strongly suggested that an individual seeking municipal office should reside in the municipality for a specified time period, in order to qualify as a candidate. In addition, he/she, if

elected, must continue to reside within the municipality, or otherwise be disqualified from holding office. The Committee feels that provision should be made in the legislation to declare the seat vacant in such circumstances. A survey of other jurisdictions indicates that a residency requirement is a condition of running for provincial or municipal office (Tables 8 and 9).

Recommendation 4: 8 **The Committee recommends that a person seeking municipal elected office, be it that of head of council, member of council, school board trustee, or public utilities' commissioner, be a qualified elector of the jurisdiction involved and be required to maintain his/her qualifications during the term of office.**

Recommendation 4: 9 **The Committee further recommends that, in the event that a municipal elected official fails to maintain his/her qualifications throughout the term of office, his/her seat be deemed vacant.**

TABLE 1

CHANGES IN THE PROPERTY QUALIFICATION 1849-1972

	1849*	1858**	1866	1868	1873	1972***
Townships	£100	-	$100	$100	$100	-
Police Villages	£100	-	$100	$100	-	-
Incorporated Villages	£12 10 shillings	$12	$300	$300	$200	-
Towns	£25	$20	$400	$300	$300	-
Cities	£50	$30	$600	$500	$400	-

* Although specified in 1849 Act these provisions were not in practice until 1850
** Decimal currency system introduced by statute in 1851
*** As of 1972 the legislation no longer required a property value qualification

TABLE 2

RESIDENCY QUALIFICATIONS FOR THE MUNICIPAL FRANCHISE 1849-1972

	1849	1858	1866	1874	1877	1922	1936	1970	1972
Freeholder	6 months next before election	at time of election	whether resident or not			Husband or wife of person rates as owner or tenant		whether resident or not	whether resident or not
Householder /tenant	6 months next before election	1 month next before election	1 month next before election					1 month next before election -also spouses of owners/tenants	resident during enumeration period
Income voter	n.a.	n.a.	n.a.	resident continuously since last assessment roll revision and at date of election			income provision removed	n.a.	n.a.
Farmer's son	n.a.	n.a.	n.a.		12 months next prior completion of assessment roll and at time of election	1931 - daughter added 1933 - sister added 1937 - daughter-in-law		12 months next prior to completion of assessment roll and at time of election	n.a.

TABLE 3

VOTER QUALIFICATIONS FOR THE MUNICIPAL FRANCHISE, EXCLUDING PROPERTY & RESIDENCY

	1849	1884	1917	1971	1972
Age	21	21	21	18	18
Citizenship	British Subject by birth or naturalization	British Subject	British subject	British subject	Canadian Citizen or other British Subject
Sex	males	males, unmarried women & widows	every person	every person	every person

TABLE 4

QUALIFICATIONS OF MUNICIPAL ELECTORS

CANADIAN PROVINCES AND TERRITORIES

Jurisdiction	Age	Citizenship	Residency	Special Provisions
Alberta	18	Canadian	-6 consecutive months preceding election, resident on election day	-summer villages proprietary owner or spouse of such; only elector who is resident of summer village may vote for school board -proprietary elector is on assessment roll, or owns family farm or mobile unit
British Columbia (General)	19	Canadian or British Subject	-resided in Canada for 12 months -in B.C. for 6 months and in municipality in which he wishes to register for 3 months	-non-resident meets all qualifications except residence; is owner or tenant -certain corporations may vote by nominee
British Columbia (Vancouver)	19	Canadian or British Subject	-must satisfy requirements by 31 July of election year -has continuously resided in City of Vancouver since 1 January of current year	-every person not being a corporation may vote
Manitoba (also applies to City of Winnipeg)	18	Canadian or British Subject	-6 months residency in authority* at date of election	-owner of land, or tenant may vote

* includes municipalities, school boards, or other corporations created to exercise jurisdiction over a local area

TABLE 4

QUALIFICATIONS OF MUNICIPAL ELECTORS

CANADIAN PROVINCES AND TERRITORIES

Jurisdiction	Age	Citizenship	Residency	Special Provisions
New Brunswick	18	no mention of citizen-ship	-ordinarily resident in province for at least 6 months prior to election; ordinarily resident in municipality on election day	
Newfoundland	18	Canadian	-resident 30 days preceding election day in municipality or in area around municipality on election day	
Northwest Territories	19	Canadian	-not less than 6 consecutive months preceding close of nominations	
Nova Scotia	18	Canadian or British Subject	-resident for 6 months preceding polling day	
Ontario	18	Canadian or British Subject*	-must be resident in municipality or owner or tenant of land or spouse thereof	-non-residents - not resident in municipality at any time during period starting Tuesday following first Monday in Sept. and ending Wed. in Oct. which precedes polling day by 19 days
Prince Edward Is.	18	Canadian	-6 months in municipality preceding election	

*British Subjects will no longer be entitled to vote after July 1, 1988

TABLE 4

QUALIFICATIONS OF MUNICIPAL ELECTORS

CANADIAN PROVINCES AND TERRITORIES

Jurisdiction	Age	Citizenship	Residency	Special Provisions
Quebec	of full age	Canadian	-one of 3 conditions for at least 12 months: -be domiciled within municipality, or -owner of immovable, or -tenant of place of business	
Saskatchewan (Rural)	18	Canadian or other British Subject	-for 30 days immediately prior to July 1, resident of municipality and tenant of land at least 80 acres; at least $60 annual residential rent	
Saskatchewan Local Government Elections Act (Urban and Northern)	18	Canadian	-Resort Villages -6 months residency -owner of land and resided elsewhere in Saskatchewan for 6 months and spouse of owner -Other municipalities -6 months residency -owner of assessable land and resident of Saskatchewan for 6 months	
Yukon	19	Canadian	-must have resided for 1 year preceding election date	

TABLE 5

QUALIFICATIONS OF PROVINCIAL ELECTORS

CANADIAN PROVINCES AND TERRITORIES

Jurisdiction	Age	Citizenship	Residency	Special Provisions
Alberta	18	Canadian	-resident of Alberta for 6 months prior to poll date -must be included on electors' list	
British Columbia	19	Canadian or British Subject	-resided in Canada 12 months prior to application for registration -resident in electoral district	
Manitoba	18	Canadian	-6 months in Manitoba prior to polling day	
New Brunswick	18	Canadian or British Subject*	-resident in province 6 months preceding issue of writ -resident in electoral district at issue of writ	
Newfoundland	18	Canadian or other British Subject	-ordinarily resident in province; if member of armed forces or R.C.M.P., 1 month; otherwise, 6 months, preceding day of election -ordinarily resident in electoral district	
Northwest Territories	19	Canadian	-resident in Territories 12 months immediately prior to polling day	
Nova Scotia	18	Canadian or other British Subject	-resident in province 6 months prior to writ	special provisions for teachers on contract in another area

*British Subject resident in province prior to 1979

TABLE 5

QUALIFICATIONS OF PROVINCIAL ELECTORS

CANADIAN PROVINCES AND TERRITORIES

Jurisdiction	Age	Citizenship	Residency	Special Provisions
Ontario	18	Canadian	-6 months in Ontario -resides in electoral district	
Prince Edward Is.	18	Canadian	-6 months in province -in polling division as of date of writ	
Quebec	18	Canadian	-domiciled in Quebec for at least 12 months	
Saskatchewan	18	Canadian or British Subject**	-resides in Saskatchewan for 6 months preceding day writ issued -resident of constituency	
Yukon	19	Canadian	-resident of Yukon for 6 months previous to polling day -resident in polling division between writ and revision of lists	

**British Subjects who qualified as electors June 23, 1971

TABLE 6

DEPOSIT AND NOMINATION REQUIREMENTS IN PROVINCIAL AND FEDERAL JURISDICTIONS

Jurisdictions	Deposit Requirements	Names Required on the Nomination Papers
Alberta	$100.00 refunded upon -election -obtaining 1/2 of votes of elected candidate -withdrawing within 48 hours of filing papers	4 or more electors of electoral division
British Columbia	none mentioned	where fewer than 10,000 registered voters: not fewer than 25 registered voters of district where more than 10,000 registered voters: not fewer than 50 registered voters of district
Manitoba	none mentioned	100 or more persons eligible to elect in electoral district
New Brunswick	$100.00 returned upon -election -obtaining at least 1/2 votes polled for elected candidate	10 or more electors qualified to vote in electoral district
Newfoundland	$100.00 returned upon -election -receiving 1/2 the votes polled for elected candidate	2 or more qualified electors in district
Northwest Territories	$200.00 returned upon -election	10 or more nominators

TABLE 6

DEPOSIT AND NOMINATION REQUIREMENTS IN PROVINCIAL AND FEDERAL JURISDICTIONS

Jurisdictions	Deposit Requirements	Names Required on the Nomination Papers
Northwest Territories (continued)	-receiving at least 15% of valid votes cast	
Nova Scotia	$100.00 returned if -elected -receives 15% of total number of valid votes	5 or more persons on list of electors
Ontario	$200.00 refunded if receives at least 10% of valid votes cast	at least 25 electors of electoral district
Prince Edward Island	$200.00 returned if -election -obtaining not less than 1/2 of votes cast for successful candidate	2 or more persons registered in electoral division
Quebec	none	60 electors of electoral district
Saskatchewan	$100.00 returned upon -election -obtaining 1/2 of votes cast for winning candidate -upon void election	4 or more electors
Yukon	$200.00 refunded if receives not less than 25% of elected candidate	25 or more electors
Canada Federal	$200.00 refunded if -elected -receives at least 15% of total valid ballots cast	25 or more electors

TABLE 7

DEPOSIT AND NOMINATION REQUIREMENTS IN MUNICIPAL JURISDICTIONS

Jurisdictions	Deposit Requirements	Names Required on the Nomination Papers
Alberta	-permissive -amount may not exceed $500 in local jurisdiction with population of more than 100,000; $100 in any other case: -deposit returned if elected; obtains at least half votes cast for last elected candidate; or withdraws from race	5 electors
British Columbia	none	2 electors
Manitoba	none	lesser of 25 electors or 1% of electors of ward or authority; minimum of 2 electors
New Brunswick	none	10 or more electors
Newfoundland General	$10 refunded if -elected -receives not less than half of votes of elected candidate	proposer and seconder, residents of ward
Cornerbrook	$50 - other provisions same	same as general provisions
St. John's	$50 - other provisions same	2 electors
Northwest Territories	none	2 or more electors

TABLE 7

DEPOSIT AND NOMINATION REQUIREMENTS IN MUNICIPAL JURISDICTIONS

Jurisdictions	Deposit Requirements	Names Required on the Nomination Papers
Nova Scotia	$200 is mandatory, unless municipality -determines, by by-law a lesser amount or no deposit at all; by-law needs approval of the Minister -upon removal of all advertising material and the filing of an affidavit so stating, clerk shall return deposit to -successful candidate -those polling at least half of votes of successful candidate A refund of 1/2 deposit shall be returned to candidate not polling 1/2 of votes	5 person electors in electoral district
Ontario	none	10 electors
Prince Edward Island	communities - none specified towns - fee of $10 repayable to any candidate receiving 1/2 or more of votes cast for elected candidate	communities - not applicable towns - two electors of town or ward
Quebec Cities and Towns Act Municipal Code	$50 returned if -elected -obtains 1/3 of votes of elected candidate none	10 electors 2 electors

TABLE 7

DEPOSIT AND NOMINATION REQUIREMENTS IN MUNICIPAL JURISDICTIONS

Jurisdictions	Deposit Requirements	Names Required on the Nomination Papers
Saskatchewan Rural	none mentioned	2 electors of division or municipality
Urban and Northern	none mentioned	5 electors of ward or municipality
Yukon	none	10 persons who are electors

TABLE 8

QUALIFICATIONS OF MUNICIPAL CANDIDATES

CANADIAN PROVINCES AND TERRITORIES

Jurisdiction	Age	Citizenship	Residency Requirements	Special Provisions
Alberta	18	Canadian	-for 6 months preceding nomination day resident in local jurisdiction and ward -summer village - not required to be resident in municipality, but must have been resident in Alberta for 12 months immediately preceding nomination day	-must be eligible elector
British Columbia (General and Vancouver)	19	Canadian or British Subject	-none	-any qualified elector whose name appears on electors' list for current year
Manitoba	18	Canadian or British Subject	-resident in municipality or ward, not less than 6 months, except summer villages which requires 2 months' residency	
City of Winnipeg	18	as above	-6 months resident in City	-must be an elector
New Brunswick	18	no mention of citizen-ship	-resident in municipality for at least 1 year prior to election; where applicable, must be resident in ward	-person entitled to vote
Newfoundland	18	Canadian	-ordinarily resident in 1 municipality only -6 months prior to nomination day, except St. Johns where 12 months is required	-eligible to vote -must not be in arrears of taxes
Northwest Territories	19	Canadian	-6 months resident immediately preceding close of nominations	

TABLE 8

QUALIFICATIONS OF MUNICIPAL CANDIDATES

CANADIAN PROVINCES AND TERRITORIES

Jurisdiction	Age	Citizenship	Residency Requirements	Special Provisions
Nova Scotia	18	Canadian or British Subject	-resident in municipality 12 months prior to nomination day, and must continue to reside in municipality	-must be elector -fully paid charges to municipality
Ontario	18	Canadian	-none	-entitled to be elector
Prince Edward Is. Towns and Communities	18	Canadian	-resident of municipality for not less than 1 year preceding nomination day	
Quebec	of full age	Canadian	-for 24 months before nomination date, domiciled in, or on assessment roll of, municipality	-must be elector of municipality
Saskatchewan Rural	18	Canadian or other British Subject	-resident in province	-elector or burgess in municipality
Local Government Election Act (Urban and Northern)	18	Canadian	-residence for at least 6 months preceding day of election	-in resort villages must only be elector
Yukon Territory	19	Canadian	-1 year period of residence	-name must be on list of electors on day of nominations

TABLE 9

QUALIFICATIONS OF PROVINCIAL CANDIDATES

CANADIAN PROVINCES AND TERRITORIES

Jurisdiction	Age	Citizenship	Residency Requirements	Special Provisions
Alberta	18	Canadian	-resident continuously for 6 months preceding polling day	
British Columbia	19	Canadian or British Subject	-resident 1 year preceding polling day	-qualified voter and registered in electoral district
Manitoba	18	Canadian	-6 months resident prior to polling day	
New Brunswick	18	Canadian or British Subject	-resident of province 6 months preceding issue of writ -British Subject resident in province prior to 1979 -resident in electoral district at issue of writ	-any person qualified to vote
Newfoundland	18	Canadian or other British Subject	-resident in province for 6 months preceding nomination day -not necessarily elector in district nominated	
Northwest Territories	19	Canadian	-none	-qualified elector
Nova Scotia	19	Canadian or other British Subject	-none	
Ontario	18	Canadian	-6 months resident in province	

TABLE 9

QUALIFICATIONS OF PROVINCIAL CANDIDATES

CANADIAN PROVINCES AND TERRITORIES

Jurisdiction	Age	Citizenship	Residency Requirements	Special Provisions
Prince Edward Is.	18	Canadian	-none	-qualified as elector in any one electoral district
Quebec	18	Canadian	-none	-any elector
Saskatchewan	18	Canadian or other British Subject	-ordinarily resident in Saskatchewan	
Yukon			-none	-any person qualified to vote is entitled to stand for office; not necessarily resident in electoral district

CHAPTER FIVE

CAMPAIGN FINANCING

Introduction

Methods of campaign financing, and the control and reporting of campaign expenses are issues of concern both to the public and to all levels of government. As the Report of the Royal Commission on Metropolitan Toronto (Robarts Report) observed, the costs of municipal campaigns have been mounting due to the increased cost of such items as postage, signs and printing. The ever-increasing cost of campaigning threatens to preclude access to elected office for the average citizen. The Labour Council of Metropolitan Toronto, in its brief to the Committee, stated:

> "the greatest barriers to a democratic municipal system are financial. In urban areas it is becoming increasingly expensive to run in an election. Aldermanic candidates regularly spend between $20,000 and $70,000 and mayoralty candidates spend in the hundreds of thousands of dollars. For a system to be democratic it must give more than the right to vote. It must provide a situation in which each candidate or political platform has some reasonable expectation of being fairly judged and in which the final

results depend upon a rational choice rather than the amount of money spent."

Thus, campaign financing at the federal, provincial or municipal levels must be open, fair and broadly based, "to ensure that the campaigns of candidates reflect the general rather than specific interests in society".

Federal and Provincial Experiences

The federal and most provincial governments, in the past twenty years or so, have enacted legislation to control the financing of election campaigns. The approach adopted by each level of government to deal with campaign financing varies from jurisdiction to jurisdiction. The legislation attempts to: (a) strengthen the confidence of the electorate in the integrity of the political process by requiring public disclosure of contributions and expenses; (b) limit amounts contributed and spent; (c) broaden the base of contribution by providing tax credits for contributors; and (d) provide public subsidies to candidates and parties.

Ontario Municipal Experience

As noted above, the cost of seeking municipal office is very expensive. In the last fifteen years, municipal campaign costs

have risen dramatically. To seek any office, especially in an urban municipality, a person needs considerable financial resources in order to conduct an effective campaign. For example, in the last election, aldermanic candidates in the City of Ottawa spent between $6,500 and $22,000. Two Ottawa mayoralty candidates spent a total of $200,000. Table 1 shows the costs involved in seeking municipal office. As the data indicate, municipal election campaigns have become very expensive propositions.

This general upward spiraling of the costs involved in campaigning for municipal office has forced municipal politicians to seek methods of regulating the financing of municipal campaigns. Some candidates have voluntarily published a list of campaign contributions and expenses. The primary purpose of this political strategy was to demonstrate their arm's length relationship with the development industry.

Legislation Governing Municipal Election Campaign Financing

A. Ontario

In 1977, the Ontario Legislature amended the Municipal Elections Act to permit municipalities to pass by-laws requiring candidates to disclose the names of persons contributing in excess of $100 to their campaigns, and to set limits on total election expenditures of candidates.

On July 7, 1982, the Municipal Elections Act was amended to allow municipal councils to pass by-laws regulating election contributions and requiring the reporting of expenses and contributions. The new provision was based, in part, on the principles and definitions contained in the Election Finances Reform Act (Ontario), which was recently superseded by the Election Finances Act, 1986 (Bill 103). The amendment deleted the reference to spending limits, yet it provided municipal councils with the authority to require candidates to disclose their total campaign expenses and contributions; to identify all sources of donations valued over $100; to place limits on individual contributions to a candidate of $500 per year; to require that receipts be issued for donations and other record-keeping conditions; and to provide penalties for non-compliance. The legislation exempts family funds used by a candidate in his/her campaign from the $500 limit, but requires that the amount be reported.

School boards and elected public utilities' commissions are not covered under section 121 of the Municipal Elections Act. Finally, the Act does not provide for contributors to receive a tax credit for contributions or for candidates to receive subsidies on their campaign expenses. The rationale for the 1982 amendment was succinctly stated by the then Parliamentary Assistant to the former Minister of Municipal Affairs and Housing, Mr. David Rotenberg: "It is hoped that this [new

provision of the Act] will broaden the base of political contributions and limit the appearance of [municipal] campaigns and candidates being controlled by special interests".

Municipalities have been very reluctant to enact by-laws under the provisions of section 121 of the Municipal Elections Act. In 1982, 24 municipalities had a by-law in force under this section, but by 1985, the number had dropped to 17. The municipalities range in population size from 700 to over 500,000 (Table 2). This reluctance appears to be, in part, due to the difficulty associated with the enforcement of such by-laws. The enforcement of the legislation rests primarily with the elector. Legal and court costs tend to discourage an elector from taking action so as to ensure that candidates comply with the provisions of section 121.

B. Quebec

The Province of Quebec is the only jurisdiction in Canada that has in place comprehensive legislation regarding municipal campaign contributions and expenditures. The Quebec legislation, An Act Respecting Elections In Certain Municipalities, applies to all municipalities with a population of 20,000 and over. The Act requires disclosure of campaign contributions and expenditures, and places limits on election expenses. The limits are based on a flat rate for each office,

mayor and councillor, plus an amount for each elector, which varies, depending on the population of the municipality. For example, election expenses for a candidate seeking the office of mayor are limited, during an election, to the total of the following amounts:

"(a) $4,500; plus

(b) $0.35 for each elector included in the group of electors over 1,000 but not over 20,000 in the whole municipality;

(c) $0.60 for each elector included in the group of electors over 20,000 but not over 100,000 in the whole municipality;

(d) $0.45 for each elector included in the group of electors over 100,000 in the whole municipality."

The legislation also limits individual contributions to an aggregate total of $500 per year and provides that the municipality reimburse a candidate, out of its own funds, for an amount equal to 50 per cent of the election expenses incurred, if the candidate is elected or obtains at least 20 per cent of the votes cast for the office. The legislation also requires an audit of the candidate's campaign

contributions and expenditures (the municipality subsidizes the auditing cost), and provides severe penalties for contraventions.

Legislative amendments proposed by the former Parti Quebecois administration in the form of Bill 60, An Act Respecting Elections and Referendums in Municipalities, provided that any party or candidate whose annual donations consisted of more than 20 per cent anonymous contributions would be required to pay the excess to the municipality. Also, any person who made a contribution to a party or candidate would be entitled to receive a refund from the municipality of an amount equal to 50 per cent of his/her contribution, or of the aggregate of the contributions, up to $140. Bill 60 was never enacted.

Proposals for Regulating Municipal Campaign Financing and Expenses

Since the early seventies, Ontario municipalities have called upon the Provincial Government to pass legislation to provide for tax deductibility of contributions made to municipal election campaigns. Submissions and presentations made to the Committee reiterated this request. Also, it was strongly suggested to the Committee that any such scheme should:

(a) impose maximum spending limits on municipal campaigns, with the limits based on the number of electors in a ward or in the entire municipality;

(b) set a total aggregate limit of $500 for an individual contributor;

(c) require public disclosure of income sources and amounts, and of election expenditures;

(d) provide income tax credits for individual campaign donations to municipal candidates, similar to those provided for provincial political contributions;

(e) provide a subsidy from provincial income taxes to all municipal candidates who receive more than 10 per cent of the votes cast.

The Committee has carefully studied three municipal proposals regarding campaign financing and expenditures, originating from the Cities of Toronto, North York and Winnipeg.

City of Toronto Proposal

In early 1985, the City of Toronto applied for special legislation to permit the municipality, by by-law, to grant a

property tax credit or refund to an owner or tenant of land in the municipality who has made a contribution during a specified time period to a municipal candidate. The main features of the proposal are: (a) contributions to candidates for municipal office would be subsidized through revenues derived from property taxes; and (b) the Toronto City Council would have the authority to establish the minimum and maximum limits for contributions.

A concern of the Committee is that this proposal does not require mandatory disclosure of election contributions and expenses, nor does it provide ceilings for expenditures. Also, it makes no provision for a system of financial control or auditing requirements. Finally, the proposal does not state who is to be responsible for administration or how such a by-law would be enforced, nor does it provide for penalties for candidates who do not comply with the requirements of the by-law.

City of North York Proposal

The North York proposal is the most comprehensive study yet undertaken to deal with the issue of municipal campaign financing. It is based on the principles and workings of the Election Finances Reform Act (Ontario). The proposed scheme would be permissive and would apply to all candidates running

in a municipal election. It would apply to candidates for municipal council, school boards and public utilities' commissions if approved by each, respectively. The participation of school boards and public utilities' commissions would have to be confirmed by council.

The main features of the proposal are that it:

(a) provides for disclosure of election contributions and expenses;

(b) sets limits on contributions, except when received from a spouse;

(c) requires record keeping and auditing of contributions and expenses;

(d) is administered by a central provincial body, the Commission on Election Finances (Ontario);

(e) permits persons considering running for municipal office to register with the Commission one year in advance of an election without having to declare the particular office which they are seeking. This means that they will be able to collect funds and issue tax receipts at least one year before the election; and

(f) is not funded directly from the property tax base, but rather through transfer payments from the Province to the municipalities.

The Committee is concerned about the possible abuse that could take place under the proposed registration scheme, for example, the collection of funds under false pretenses. Audited annual reports would have to be instituted and a system of checks and balances would have to be put in place to prevent abuses. Monies collected by a person who, for some reason, did not run for office would have to be given to the municipality. It should also be noted that public utilities' commissions do not receive unconditional transfer payments from the Province.

City of Winnipeg Proposal

In June, 1986, the City of Winnipeg Act Review Committee issued its final report and recommendations. The Review Committee proposed that legislative authority be granted to the City of Winnipeg and other Manitoba municipalities to pass by-laws regulating election expenses and requiring the disclosure of contributions and the reporting of campaign expenditures. A municipal by-law passed under the Review Committee's proposal would be permissive and would include the following provisions:

- a contribution limit for any one candidate of a specified amount in a given year;

- a requirement that receipts be issued for all money and in-kind contributions above a specified amount;

- a requirement that the official agents of candidates submit to the municipal clerk, within 90 days of the election, a financial statement containing the total amount of contributions received, a list of contributions, including all goods and services donated, and the names and addresses of contributors who gave an aggregate total exceeding a specified amount;

- a requirement that the official agent of a candidate submit, within 90 days of the election, an itemized list of expenditures to the municipal clerk;

- a requirement that the lists of contributions and expenses be available for public examination at the municipal offices;

- a requirement that a ceiling be placed on total expenditures of candidates;

- a provision that contributions by individuals to municipal candidates be eligible for credit against Provincial personal income tax, payable on the same pro-rata basis as provided for in the Election Expenses Act (Manitoba);

- enforcement of the by-law would be the responsibility of the municipal clerk and the by-law should establish fines for contravention;

- by-laws may authorize public subsidies to be paid to candidates for municipal office who obtain a specified percentage of the votes cast for the office.

As the Review Committee indicated, this proposal, while it is permissive, contains certain mandatory provisions to be followed by all municipalities. Unlike Ontario and Quebec, Manitoba shares a portion of both personal and corporate income tax with its municipalities. If any municipality in Manitoba were to adopt the recommendations of the Review Committee, it would, in effect, be spending its own money by authorizing tax credits for campaign contributions.

Costs of Tax Deductibility

The costs of any tax deductibility scheme are directly related to the size of the credit the jurisdiction involved is prepared

to provide. In 1984, 20,289 contributors (corporations and individuals) donated in excess of $100 each, for a total of $5,872,705 to Ontario-registered political parties and their constituency associations. The average contribution was $290. Based on 75 per cent of the first $100 plus 50 per cent of the next $200, the average tax credit was $170. The cost to the province was estimated at $3,449,130. Assuming the same rules were applicable to all municipalities with a population of 100,000 or over, based on a total of 10,000 contributors, the cost would be $1,700,000.

If the primary purpose of any campaign donation tax credit is to encourage more people to participate in the financing of municipal campaigns, and if, as a result, they take a greater interest in the affairs of their local governments, a high-incentive tax credit should be given for small contributions and a lower-incentive tax credit for larger contributions. For example:

- no credit for a contribution under $10;

- 25 per cent of contributions up to $200;

- 20 per cent of contributions between $200 and $350; and

- 15 per cent of contributions between $350 and $500.

The maximum tax credit under this example for a $500 contribution would be $102.50; and if 10,000 contributors were then to donate to municipal campaigns, the total cost would be $1,025,000.

Who Pays?

In addressing this question the Committee considered five options. All options would be permissive and most could apply to municipalities, school boards and public utilities' commissions.

Option A: an income tax credit scheme financed by provincial funds similar to that in place for provincial elections. The advantage of this option is that it is straightforward, and simple to apply. Anyone could contribute to a municipal candidate in any jurisdiction but only electors and corporations would be eligible for a tax credit. By using the same scheme as is currently in effect for financing provincial parties and candidates, the contributor would receive the same tax credit, whether he made a financial contribution to a municipal candidate, to a provincial party, or to a provincial candidate. Administration and enforcement would be the responsibility of the Commission on Election Finances (Ontario). The Committee recognizes that the position of the Province of Ontario, to date, has been that provincial

income tax revenues should not be used to subsidize the financial needs of municipal candidates or contributions to municipal campaigns.

Option B: a tax deductibility scheme financed by municipalities from municipal revenues (property taxes, provincial grants, and other revenues). This scheme is similar to the one proposed by the Parti Quebecois administration. It represents no cost to the Province of Ontario. Administration and enforcement could be the responsibility of a provincial central agency, i.e., the Commission on Election Finances, or of the individual municipalities.

Option C: a tax deductibility scheme financed by the Province through deductions from transfer payments (grants) to municipalities (North York proposal). This scheme is similar to Option A, except that the cost of tax credits would be deducted by the Province from the participating jurisdictions' transfer payments.

Option D: a tax deductibility scheme financed by property taxes (City of Toronto proposal). This scheme is similar to Option B, except that it would be financed solely from the property tax base.

Option E: a subsidy program financed by municipalities and school boards. Under this option municipalities and school boards would be granted authority to pass a by-law establishing a system of public disclosure of campaign contributions, and to subsidize campaign expenses of candidates to a limited degree, based upon the candidates' obtaining a specified percentage of the votes cast (Robarts Report recommendation). This scheme is similar to the one in place in the Province of Quebec. The Robarts Commission preferred this scheme because, in its view,

> "the extension of income tax deductions to municipal campaign contributions is [not] the best way to ease the costs of running for office. While these campaigns are becoming more expensive in Metropolitan Toronto, they are not as expensive as campaigns at the federal and provincial levels and they therefore do not require the same formalized system of public support. Even if the deduction were desirable, an extensive bureaucracy would be required to administer such a system for local candidates. In the absence of political parties, individual candidates would have to set up systems for issuing receipts and reporting these to the federal Department of Revenue. Given the 210 elected positions now in existence in Metropolitan Toronto (including public and separate school boards there were

502 candidates in the 1976 election), an extensive system of checking would be required to prevent abuse.

"The Commission thinks it preferable to give councils and other elected bodies the power to subsidize campaign costs to some degree. Such a subsidy would be recognition that a healthy political process serves the interests of the municipality and its taxpayers, and would recognize that the costs of participation should not be borne by the candidate or his supporters alone. It would also provide a means of meeting some of the basic costs of a municipal campaign, thus giving a chance for municipal elected office to people of all income groups."

The Committee believes that municipal candidates should be permitted to collect funds and issue receipts to enable contributors to receive a portion of their donations back in the form of a tax credit. The Committee's preference is that the funding be provided from provincial revenues. As noted earlier, the Province is not prepared to finance a tax deductibility scheme for municipal campaign contributions. In view of this, the Committee suggests that the Municipal Elections Act be amended to permit municipalities and school boards to provide tax credits for contributions to municipal election campaigns, payable on the same pro-rata basis as provided in the Election Finances Act (Ontario). It is our

belief that, given the diverse character of Ontario municipalities and school boards, such a system should be permissive and should be funded by municipalities and school boards, through a system of deductions from their respective transfer payments. Finally, we are of the view that the enabling legislation should be modelled on the Election Finances Act (Ontario) and that the system should be administered and enforced by the Commission on Election Finances (Ontario).

Recommendation 5: 1 **The Committee recommends that the Municipal Elections Act be amended to authorize municipalities and school boards to pass a by-law or a resolution, respectively, to provide tax credits for contributors to municipal election campaigns, and that the legislation be modelled on the Election Finances Act (Ontario).**

Recommendation 5: 2 **The Committee recommends that the Commission on Election Finances (Ontario) be responsible for the administration of the proposed municipal tax credit system.**

Recommendation 5: 3 **The Committee recommends that the cost of the proposed municipal tax credit system be borne by the participating municipalities and school boards, and that such funds be deducted by the Province from the participants' transfer payments.**

Campaign Donation Period

If municipalities or school boards opt into a tax deductibility scheme, we believe that there is a need to establish a time period within which tax deductible campaign donations may be solicited by candidates.

Further reasons for a restricted campaign donation period are the absence of formal political parties at the municipal level, the lack of a mechanism to regulate annual contributions to municipal candidates and the fact that municipal elections are held triennially on a fixed date. A limited period is necessary so as to give all possible candidates an equal opportunity of raising funds. Also, common rules regarding municipal election campaign financing would enable the regulating body to register and monitor the activities of candidates on an equal and just basis.

It was suggested that registration of candidates commence six months prior to polling day. Any candidate could register during this period with the Commission on Election Finances. This would enable the candidate's campaign organization to open a bank account, start collecting contributions and issue official receipts. A person registered with the Commission who did not run for office would have to file an audited return and turn over all monies collected either to the agency or to the

municipality. The end of the campaign period should be six months after polling day, but all accounts payable with respect to candidates' campaign expenses would have to be submitted to their authorized representatives within three months. If, for some reason, a candidate were unable to meet the deadline of six months after polling day for submitting his/her audited statement to the Commission, the candidate could apply for an extension. The Commission would have the authority to extend the original deadline for a period of time, as it sees fit.

Recommendation 5: 4 **The Committee recommends that the proposed enabling legislation for municipal tax credits provide for a campaign donation period commencing six months prior to polling day and ending six months after polling day.**

Recommendation 5: 5 **The Committee recommends that any person seeking municipal office in a municipality or school board which has elected to provide tax credits for campaign donations be required to register with the Commission on Election Finances (Ontario) no earlier than six months prior to polling day and no later than nomination day.**

Recommendation 5: 6 **The Committee recommends that a person registered with the Commission be permitted to issue receipts for tax credits during the proposed campaign donation period.**

Recommendation 5: 7 **The Committee recommends that the Commission be authorized to extend the campaign donation period proposed in recommendation 5: 4 for any candidate who shows cause, for any period which the Commission deems appropriate.**

Recommendation 5: 8 **The Committee recommends that all invoices for campaign expenses be required to be submitted to candidates within three months of polling day.**

Disclosure and Reporting of Contributions and Expenses

The "value" of disclosure, as the Ontario Commission on the Legislature (Camp Report) stated, "is that of encouraging an open system, in which the public's right to know, is a foremost consideration as is the right of contributors to give openly and voluntarily". The Committee shares this view and believes that through disclosure, the public would be provided with the information needed to formulate a clear picture of a candidate's financial support. Some have argued that such disclosure may lessen the suspicion and cynicism among citizens regarding municipal institutions and the participants in the municipal political arena. Others claim that the purpose of disclosure is not only to provide information to the public but to deter individuals and groups from attempting to wield undue influence over representatives. As an editorial in the Toronto Star, dated April 12, 1985, stated:

> "The best way to make sure elected officials aren't in the pockets of big contributors is to have laws limiting the amount of contributions, and requiring candidates to disclose how much money they spend on their campaigns and where it came from".

Disclosure and limits to the amounts of contributions are primarily means of democratizing political campaigns. Such restrictions do not necessarily prevent unorthodox practices by candidates, but would enable the public to know who sides with whom in an election. In our view, it should make a difference to the voters and the candidates whether most of the money contributed to a candidate was donated by a single powerful business, trade association or trade union; or whether most of it came from small donations from individuals who belong to no special interest group.

Limits on Contributions

The Committee believes that limits should be placed on the amounts contributed to a candidate or candidates. Statutory limits to the size of contributions to a candidate, in our opinion, are not designed to prevent individuals or groups from contributing to a campaign. They are intended to (a) reduce an officeholder's dependence on one or few contributors; and (b) to assure the public that no individual or special interest

group has direction, control or management over public policy as a direct result of a candidate's dependence on that group or individual for financial support, in the past, present or future. The size of contributions should be limited to $750 per candidate and to an aggregate of $3,000 for all candidates in the jurisdiction.

Recommendation 5: 9 **The Committee recommends that the amounts contributed to any one candidate during the proposed campaign donation period by an individual, corporation or other entity be limited to monies or services totalling $750 in value and to an aggregate of not more than $3,000 for all candidates in the jurisdiction.**

Contributions of Candidates and Spouses

The Committee discussed placing limits on the contributions of candidates and spouses. Under the provisions of section 121 of the Municipal Elections Act, candidates' personal funds or their spouses' funds are exempt from the contribution limits imposed, but must be disclosed. It is the Committee's view that the present provisions should continue to apply provided that they do not exceed the total limits to expenses discussed below.

Limits on Expenses

The costs of municipal election campaigns, as noted earlier, have reached a level that would prevent the average citizen from seeking elected office. For example, two candidates for the office of mayor in one municipality spent a combined total of well over $600,000. We believe that if municipal elected office is to be accessible to all citizens, limits must be placed on the amounts candidates and their supporters may spend in election campaigns. Otherwise, running for office will be limited to those who are wealthy or are well connected in the business community and are able to outspend their opponents.

In most jurisdictions across Canada, candidates are restricted as to the amounts which they may spend in their campaigns (Table 3). In the Province of Ontario, recent legislative changes (Bill 103) placed limits on the total campaign expenses which may be incurred by a political party, candidate and constituency association during a campaign period. The legislation provides that the total campaign expenses incurred by a registered candidate and by his/her supporters should not exceed the total of $2 for each of the first 15,000 electors entitled to vote in the candidate's electoral district; $1 for each elector in excess of 15,000 but not exceeding 25,000; and $0.25 for each elector in excess of 25,000.

At the municipal level, as noted earlier in this chapter, only the Province of Quebec has instituted limits to election expenses based on a similar formula. The Committee applied the Ontario and Quebec formulae to eight municipalities selected at random (Table 4). It was found that the Ontario formula benefits those municipalities with a small number of electors, whereas the Quebec formula takes into account the numbers of electors. For example, under the Quebec formula, a person running for head of council in the City of Toronto would be limited to $216,134, based on 448,854 electors. Under the Ontario formula, the total expenses allowed would be $145,964. For the Town of Lindsay, with 11,683 electors, the Quebec formula would permit a candidate for head of council to spend up to $8,239; but the Ontario formula would allow up to $23,366.

We are of the view that ceilings on municipal candidates' expenditures should be based on a modified version of the Quebec formula. Accordingly, we suggest that the following expenditure limits apply to candidates for head of council: $5,500 plus $0.40 per elector in a municipality with 1,001 to 20,000 electors; $0.50 per elector in a municipality with 20,001 to 100,000 electors; and $0.45 per elector in a municipality with more than 100,000 electors. The proposed formula recognizes the diversity in the size of municipal electorates and campaigns. It represents a bell curve so as

not to disadvantage rural municipalities with few electors, where candidates must travel long distances in campaigning, or to set limits which are too high for large densely populated municipalities. The same provisions should apply to members of council other than the head of council, to school trustees, and to public utilities' commissioners provided that the basic amount be limited to $3,500.

Recommendation 5: 10 **The Committee recommends that campaign expenses be limited to $5,500 for candidates for head of council and $3,500 for all other candidates, plus, for all candidates, an additional $0.40 per elector in a municipality with 1,001 to 20,000 electors; $0.50 per elector in a municipality with 20,001 to 100,000 electors; or $0.45 per elector in a municipality with more than 100,000 electors.**

Public Subsidies

In most provincial jurisdictions, a public subsidy is provided to a candidate to meet certain election expenses if he/she is elected or receives a certain percentage of the votes cast. In the Province of Quebec, a subsidy is also provided for municipal candidates. Also, the cost of auditing candidates' financial statements is subsidized. We are of the view that a public subsidy should be provided to meet the candidates' costs of auditing only.

Recommendation 5: 11 **The Committee recommends that the Commission on Election Finances (Ontario) subsidize the cost of auditing municipal candidates' financial statements.**

Recommendation 5: 12 **The Committee recommends that any candidate for municipal office be required to file an audited report of his/her election campaign contributions and expenses with the Commission on Election Finances (Ontario) with a copy to the municipal clerk within six months after polling day, unless the Commission has granted an extension.**

Penalties for Failure to Report

As noted earlier, the primary weakness of section 121 of the Municipal Elections Act is the difficulty of enforcement. Recent election experiences show that some unsuccessful candidates for office in municipalities which have a disclosure by-law have failed to report their campaign contributions and expenses. We are of the view that disclosure should be mandatory and self-enforcing; we do not believe that electors should have to initiate legal action to ensure compliance. Therefore, if a candidate fails to comply with the proposed reporting requirements, he/she should be subject to the following penalties:

1. loss of deposit;

2. disqualification from office, if elected; and

3. ineligibility to seek or hold municipal office for a specified time period.

Recommendation 5: 13 **The Committee recommends that a candidate who fails to file a report of election campaign contributions and expenses forfeit his/her deposit; be immediately disqualified from office, if elected; and be ineligible to seek or hold municipal office for a period of six years from the date of the poll.**

Surpluses

If candidates' revenues exceed their expenses, the Committee feels that such surpluses should be turned over to the municipalities or school boards to be used to defray the costs of tax credits. This requirement should also apply to any candidates who register with the Commission but who fail to run for office.

Recommendation 5: 14 **The Committee recommends that any surpluses be turned over to the municipality or school board.**

Disclosure Without Tax Credits

As noted previously in this report, few municipalities in Ontario have adopted a disclosure by-law. We are of the view that municipalities and school boards which do not opt into the proposed tax credit system should require candidates to disclose their campaign expenses and contributions. Also, we believe that candidates' campaign expenses in all local government jurisdictions should be limited as proposed above. Disclosure would enhance the credibility of both candidates and local government in general.

Aside from the fact that they are not mandatory, the Committee is of the opinion that the current provisions of section 121 of the Municipal Elections Act are adequate, except that the limit placed on individual contributions should be raised from $500 to $750, to reflect today's costs of running a campaign, and that there should be limits to campaign expenses. We propose that the municipal clerks continue to be responsible for the administration of the legislation and that they be required to report candidates' campaign contributions and expenses to council, as well as to make such reports available for public examination at the municipal offices. Candidates who fail to comply should be subject to the same penalties as proposed in recommendation 5: 13.

Recommendation 5: 15 The Committee recommends that all municipal candidates be required to disclose their election campaign contributions and expenses within six months after polling day.

Recommendation 5: 16 The Committee recommends that section 121 of the Municipal Elections Act be amended to require that municipal candidates in municipalities without a tax credit system disclose and report their campaign contributions and expenses.

Recommendation 5: 17 The Committee further recommends that section 121 of the Municipal Elections Act be amended to provide that contributions to any individual candidate in any year be limited to monies, goods or services totalling $750 in value.

Recommendation 5: 18 The Committee recommends that recommendations 5: 8, 5: 10 and 5: 13 apply to all municipal candidates.

Table 1

1985 Expenses Reported by Municipal Candidates

Municipalities with a By-law under Section 121 of the Municipal Elections Act

Municipality	Position	No. of Candidates	High $	Mean $	Low $
Ottawa	Mayor	5	124,858	40,372	0
	Alderman	50	21,924	6,472	85
Brampton	Mayor	2	35,079	23,966	12,853
	Alderman	26	3,653	2,231	0
Kitchener	Mayor	5	3,151	1,252	25
	Alderman	15	3,134	1,659	0
Niagara Falls	Mayor	2	9,750	6,186	2,623
	Alderman	22	3,495	1,359	1
North York	Mayor	3	95,249	43,328	2,302
	Controller	8	37,038	15,727	214
	Alderman	31	28,495	5,934	208
Scarborough	Mayor	7	60,875	30,720	25
	Controller	8	44,347	20,977	1
	Alderman	46	11,250	3,300	154

Table 2

Municipalities Reporting on the 1982 and 1985 Clerks' Returns as Having an Election Expenses By-law (Section 121)

1982

Township of Bastard and South Burgess
Town of Blenheim
City of Brampton
City of Burlington
Township of East Garafraxa
Village of Grand Bend
Village of Grand Valley
Village of Hepworth
City of Kitchener
City of London
Township of Marathon
Township of Michipicoten
City of North Bay
Township of Osprey
City of Ottawa
City of Peterborough
Town of Rainy River
Township of Ross
Town of Tecumseh
Township of Uxbridge
Town of Vaughan
City of Windsor
Township of Wolfe Island

1985

City of Brampton
City of Burlington
City of Gloucester
Village of Grand Bend
City of Hamilton
City of Kitchener
City of London
City of Niagara Falls
City of North Bay
City of North York
Town of Oakville
City of Ottawa
City of Peterborough
Town of Richmond Hill
City of Scarborough
Township of Uxbridge
Town of Vaughan

Table 3

Election Contributions and Expenses Legislation in Canada

Jurisdiction	Limits on Expenditures	
	Party	Candidate
Canada	yes	yes
Alberta	no	no
British Columbia	no	no
Manitoba	yes	yes
New Brunswick	yes	yes
Newfoundland	no	no
Northwest Territories	no	no
Nova Scotia	yes	yes
Ontario	yes	yes
Prince Edward Island	yes	yes
Quebec	yes	yes
Saskatchewan	yes	yes
Yukon Territory	no	no

Table 4

Application of Ontario and Quebec Formulae for Expenditure Limits for Candidates for Head of Council

Municipality	Number of Electors	Quebec Formula Total Costs	Ontario Formula Total Costs	Proposed Formula Total Costs
Toronto	448,854	$216,134	$145,964	$207,484
Scarborough	330,930	163,068	116,482	154,418
Ottawa	241,030	122,614	94,008	113,964
Brampton	119,026	67,712	63,506	59,062
Sault Sainte Marie	58,624	34,324	48,406	34,812
Cornwall, City of	34,792	20,025	42,448	22,896
Stratford	20,100	11,110	35,100	15,550
Lindsay, Town of	11,683	8,239	23,366	10,173

CHAPTER SIX

ACCESSIBILITY TO VOTING

Introduction

Voting is the most common form of citizen participation. Casting a ballot is the citizen's most important act in the electoral process. It is at this time that a citizen is able to register a preference among the various candidates. Polling day not only enables the citizen to elect representatives but more importantly provides an opportunity to signify approval or disapproval of the elected representatives' performance.

Polling Day

Municipal polling day is currently the second Monday in November of every third year. It was not always so. In the early part of this century, the statutory date for electing municipal councils was the first Monday in January. However, during this period, special legislation was requested and granted for a number of municipalities to allow them to have earlier polling dates. In 1946, the Municipal Act was amended to permit municipalities to establish a polling date

between November 15th and January 2nd. This provision remained until 1972, when, based on the recommendation of the Select Committee on Election Laws, uniformity was mandated. Under the new legislation, the Municipal Elections Act, the first Monday in December was fixed as the regular polling day. In 1977, the legislation was changed to provide for the second Monday in November as polling day. The change was the result of a number of factors: (a) the 1972 and 1974 severe snowstorms on polling day; (b) a desire to improve voter turnout; and (c) a desire to facilitate voting by non-resident electors in municipalities with large seasonal populations. A number of submissions to the Committee have supported the view that, to improve participation in municipal elections, polling day should be held two to three weeks earlier. These submissions indicate that an earlier polling day would be more acceptable to the voting public and to the candidates.

A review of other municipal jurisdictions indicates that in Alberta, Manitoba, Nova Scotia and Saskatchewan, municipal elections are held in October. November appears to be the preferred month in British Columbia, Prince Edward Island, Quebec, Newfoundland and the Yukon for electing municipal councils, while New Brunswick holds its municipal elections in May and the Northwest Territories, in December. The polling dates in these jurisdictions are set for a weekday, with the exception of Quebec, which authorizes municipalities to hold

elections on the first Sunday in November; British Columbia, which provides for the third Saturday in November, and Nova Scotia, which provides for the third Saturday in October (Table 1).

The Committee received a number of submissions calling for an earlier polling day. Some preferred the month of October and others preferred the last week in September. Polling days requested, in order of preference, were: Tuesday, Sunday, Saturday and Monday. We are aware that any change in polling day will also necessitate a change in nomination day, the enumeration period, and possibly the date of assumption of office. In considering the timing of polling day, nomination day and the enumeration process, the Committee looked at four options, as shown in Figures A, B, C and D. All dates were calculated, based on the 1985 municipal elections.

Under Option A, polling day would be the fourth Monday in October, with a mandatory advance poll on the Saturday, nine days before polling day. Nomination day would be the Monday, 28 days before polling day. Under this option, the enumeration would be conducted during the months of May and June, with the qualification that a 29-day revision period for the preliminary list of electors be provided between the months of September and October. The framework of Options B, C and D is similar to that of Option A, except for polling day. Option B proposes

the third Monday in October as polling day, whereas Option C proposes the third Tuesday in October, and Option D proposes the third Sunday in October.

It is the Committee's view that polling day should be in October, in view of the generally better weather conditions. It has been determined that the third week of October would permit an advance poll to be held on the Thanksgiving Saturday and would not interfere with harvesting, as most crops are in by this time. Tuesday or Sunday were considered the most appropriate days of the week for holding an election.

The advantages of a Sunday polling day are that the majority of the electorate does not have to work on that day and that schools and other public buildings could be used as polling places. The disadvantages are that church facilities would not be available as polling places until the afternoon, that some people would object to Sunday voting for religious reasons, and that many people are away from home on weekends.

The advantages of a Tuesday polling day are that it provides a working day immediately prior to polling day, and that church facilities would be available as polling places. The disadvantages are that most people are at work and that commuters, in particular, find it difficult to get to the polls before they close.

The Committee recognizes that there are advantages and disadvantages to both Sunday or Tuesday polling days and wishes to receive further input prior to the publication of its final report. In the meantime, we are tentatively suggesting that polling day be the third Tuesday in October.

Recommendation 6: 1 The Committee tentatively recommends that Option C be implemented, namely, that polling day be the third Tuesday in October; that the mandatory advance poll be held on the Saturday ten days before polling day; and that nomination day be the Monday 29 days before polling day.

Date of Assumption of Office

The Committee believes that its recommended change in polling day would not necessitate changing the current date of assumption of office of December 1st. In fact, the increased period would give new councillors, school trustees and public utilities' commissioners an opportunity to become acquainted with their respective offices and would allow additional time for recounts.

The proposed Ontario Municipal Elections Commission and the Ministry of Municipal Affairs, in cooperation with the Ministries of Education and Energy, could use this additional time to begin conducting seminars and workshops for newly

elected members of councils, school boards and commissions. Finally, the Committee recognizes that a longer period between polling day and assumption of office by the new members of council, school boards and commissions would allow sufficient time for retiring members to vacate their offices and to make plans for future endeavours.

Recommendation 6: 2 **The Committee recommends that no change be made to the date of assumption of office.**

Advance Poll

Under section 66 of the Municipal Elections Act, the municipal clerk is required to hold an advance poll on the Saturday nine days before polling day. If polling day were to be the third Tuesday in October, an advance poll would be held on the Saturday ten days before polling day, i.e., on the Thanksgiving weekend. The current provisions of the Act permit the municipal council, by by-law, to instruct the municipal clerk to hold additional advance polls. A number of submissions to the Committee, especially those from cottagers' associations, strongly suggested that a second advance poll be mandated. The Committee is not convinced that a second mandatory advance poll is required. However, the Committee believes that a mechanism should be put in place to provide for an additional advance

poll if there is significant support among the electors for an additional advance poll.

Recommendation 6: 3 **The Committee recommends that the Municipal Elections Act be amended to require a municipal council, upon the receipt of a petition containing the signatures of 200 electors or more, at least 30 days before nomination day, to pass a by-law before nomination day directing the municipal clerk to hold an additional advance poll.**

Polling Hours

Under the existing legislation, the regular and advance polling hours vary. Section 52 of the Municipal Elections Act stipulates that regular polling hours shall be 11:00 a.m. to 8:00 p.m., whereas section 66(3) of the Act requires advance polls to be open from 9:00 a.m. to 8:00 p.m. The Committee has received a number of submissions which suggest that:

(a) regular and advance polling hours should be the same;

(b) municipal polling hours should be the same as those of federal and provincial elections;

(c) the polling hours in municipalities with a population of less than 5,000 be from 11:00 a.m. to 8:00 p.m.; and that, in larger municipalities, the polls open at 9:00 a.m. and close at 8:00 p.m.; or

(d) polling hours for all municipalities be from 9:00 a.m. to 5:00 p.m.

A recent survey of municipal election procedures across Canada indicates that Ontario, the Northwest Territories, Quebec and Saskatchewan (rural municipalities) have the shortest polling hours for municipal elections. The rest of the provinces allow a 10 to 12 hour period for their municipal polls (Table 2).

Ontario's municipal polling hours are shorter than those of provincial elections. Under existing legislation, provincial polling hours are from 9:00 a.m. to 8:00 p.m. This affords provincial electors 11 hours to exercise their franchise, whereas municipal electors have nine hours to register their preference on polling day. Federal polling hours and some provincial polling hours are similar to those of Ontario provincial elections (Table 3).

During the November 1985 municipal elections, a number of municipal politicians and media personalities commented that the 11:00 a.m. to 8:00 p.m. polling period was inadequate. It

was suggested that longer hours should be instituted for municipal voting. The Committee does not entirely agree with this view. Under existing legislation, a municipal elector is guaranteed access to voting. Section 49(2) of the Municipal Elections Act requires employers to allow employees three consecutive hours to vote without penalty. The Committee wishes to state that it favours the principle of uniformity among the municipal, provincial and federal election provisions. The advantage of uniform polling hours is that there is no possible confusion for the public, and that it is easier to advertise them. Despite this, the Committee does not believe that municipal polling hours need to be lengthened for all municipalities. The reasons are as follows:

(a) there is no evidence that would indicate that voter turnout in most municipal elections would be increased by opening the polls at 9:00 a.m. By 9:00 a.m., most electors are required to be at their place of work; and

(b) longer polling hours would require additional election staff at the polls at additional cost to the municipality, and would result in an increase in the level of fatigue of the DRO and the poll clerk, possibly resulting in a greater number of errors during the complex counting process.

The Committee also recognizes that some of the larger municipalities have expressed a preference for longer polling hours. Accordingly, we suggest that polling hours for all municipalities, including advance polls, be 11:00 a.m. to 8:00 p.m. We also suggest that municipal councils which feel that longer polling hours are necessary to meet the needs of their electorate should have the authority to extend the polling period by two hours.

Recommendation 6: 4 **The Committee recommends that polling hours for both regular and advance polls be 11:00 a.m. to 8:00 p.m.**

Recommendation 6: 5 **The Committee further recommends that municipalities be authorized to pass a by-law, at least three months prior to polling day, to set the polling hours for both the regular and advance polls at 9:00 a.m. to 8:00 p.m.**

Proxy Voting

Section 67 of the Municipal Elections Act currently provides that only persons who are incapable of attending a poll for medical reasons, who are away attending an educational institution, or who will be away on polling day by virtue of the nature of their jobs are permitted to vote by proxy. During the past two municipal elections, a number of issues

arose with respect to proxy voting. First, there seems to be some confusion with respect to the term "educational institution". Second, the existing provisions are very restrictive. For instance, a person away on business could not vote under the present provisions. Finally, a medical certificate may be difficult for some individuals to obtain. Proxy voting is permitted in municipal elections in Newfoundland and in Nova Scotia (Table 4). The Committee is of the view that the proxy voting provisions should be, where practical, identical with those found in the Election Act (Ontario) and the Canada Elections Act.

Recommendation 6: 6 **The Committee recommends that the application of proxy voting in any municipal election be limited to any elector who on polling day, including advance polls, is:**

(a) employed in a business, the nature of which involves long distance travel by railway, air, water, or motor vehicle;

(b) away on business at the employer's direction;

(c) ill or physically incapacitated;

(d) a full-time student duly registered at a recognized educational institution; or

(e) absent from the municipality for personal reasons.

Mail-In Ballots

A number of municipalities and cottagers' associations have requested that consideration be given to amending the Municipal Elections Act to provide for a system whereby an elector could vote by mail. The Committee believes that the recommended expanded proxy provisions, as well as a Thanksgiving Saturday mandatory advance poll, should suffice to meet the needs of cottagers and others who find it difficult to attend regular and advance polls. Furthermore, in view of the complexity of the municipal ballot, it would be very difficult to ensure secrecy and to prevent loss of ballots in the mail. If a system of mail-in ballots were to be implemented the clerks' control over the ballots would be reduced and this could result in errors in the counting of the ballots.

Seniors and the Handicapped

Several submissions received by the Committee indicated that many polling places are not easily accessible to seniors or handicapped persons. The most commonly identified obstacles

for these persons are: (a) lack of proper information or instructions; (b) inadequate parking facilities; (c) lack of accessible washrooms; (d) lack of level walkways and pathways to the building; (e) the architecture of the buildings themselves; and (f) inaccessible voting booths. To address these concerns, it was suggested that election officials consider the following:

(a) finding an alternative facility which is accessible;

(b) modifying the current facility in order to make it accessible;

(c) providing physical assistance; and

(d) providing curbside voting.[1]

It was also suggested that schools, retirement or nursing homes and recently constructed public and commercial buildings be utilized as polling places, since such buildings are more likely to be accessible to seniors and the handicapped. In addition to these measures, efforts should be made by election officials to provide adequate signs at each polling place in order to indicate, for example, handicapped parking facilities, path directions and, especially, directions for any alternate entrance for seniors and the handicapped. Moreover, such

measures should be publicized well in advance, so that the persons affected will be aware of them. Also, efforts should be made to provide polling tables with adequate clearance, so that individuals confined to wheelchairs may mark their ballots with ease. For blind voters, it was suggested that braille ballots be provided.

Recommendation 6: 7 **The Committee recommends that serious efforts be made by election officials to ensure that polling places are accessible to seniors and the handicapped.**

Recommendation 6: 8 **The Committee recommends that consideration be given by the Ministry of Education to the closing of schools on polling day, so that such places could be used as polling places.**

Recommendation 6: 9 **The Committee recommends that, where necessary, curbside voting be provided.**

Recommendation 6: 10 **The Committee recommends that the proposed Commission, in cooperation with the Ontario Advisory Council on Senior Citizens and the Ontario Advisory Council on the Physically Handicapped, establish guidelines for accessible polling places.**

Recommendation 6: 11 **The Committee recommends that municipalities establish advisory committees to assist in the identification and location of accessible polling places.**

Ethnocultural Voters

The ethnocultural composition of the province has changed dramatically since the post-war period. According to the Ethnocultural Data Base Office of the Ministry of Citizenship and Culture, in 1871, 17.8 per cent of Ontario's population was of non-British origin. By 1951, the level had risen to 33 per cent and, 30 years later, to 40 per cent. As of 1981, the largest ethnic groups in Ontario were, in descending order, Italians, Germans, Dutch, Ukrainians, Jews, Portugese, Poles, Chinese, Indo-Pakistanis, Greeks and Blacks.

As the Report of the Pepin-Robarts Task Force on Canadian Unity notes: "the social fabric of Canada has changed over the last century, and yet our social and political structures failed to accommodate many of the changing circumstances". The Committee recognizes that the province, in the past 10 to 15 years, has made serious efforts to address the needs of ethnocultural voters, such as providing testing for drivers' permits in languages other than English and French, and translating certain key legislative Acts, such as the Ontario Human Rights Code, into languages other than English and French to

facilitate comprehension. However, ethnocultural voters are faced with a number of obstacles. The Municipal Elections Act makes no provision for providing information or instructions to the electorate in a language other than English or French.

A number of presentations made to the Committee stressed that election staff are not sensitive to the cultural and linguistic reality. In some cases, election staff have treated ethnocultural voters in a discriminatory manner by demanding to see proof of citizenship, even though the legislation does not require such proof. It is the Committee's view that closer cooperation between election officials and the various ethnocultural communities is needed, and that efforts should be made to provide basic information about the municipal electoral process in languages other than English or French.

Recommendation 6: 12 **The Committee recommends that the proposed Commission translate the Municipal Elections Act into French and into other languages, where numbers warrant.**

Recommendation 6: 13 **The Committee recommends that the proposed Commission, in cooperation with the Ministry of Citizenship and Culture and the Ontario Advisory Council on Multiculturalism and Citizenship, translate voter information and instructions, as well as any other publication relating to**

the municipal electoral process, into other languages, where numbers warrant, and disseminate the same.

Recommendation 6: 14 The Committee recommends that, where numbers warrant, municipal election officials establish an advisory committee consisting of persons of different linguistic and cultural backgrounds to assist in the dissemination of information with respect to the municipal electoral process.

Recommendation 6: 15 The Committee recommends that, where numbers warrant, election officials hire interpreters to provide assistance to voters of different linguistic backgrounds at the polling places.

Recommendation 6: 16 The Committee recommends that election staff be sensitized to the linguistic and cultural needs of the electors and, where possible, that persons of appropriate linguistic and cultural backgrounds be employed as election staff.

FIGURE A

MUNICIPAL ELECTORAL PROCESS

OPTION A

CURRENT	PROPOSED
POLLING DAY	
Second Monday in November (November 12/85)	**Fourth Monday** in October (October 28/85)
MANDATORY ADVANCE POLL	
Saturday 9 days before Polling Day (November 2/85)	**Saturday** 9 days before Polling Day (October 19/85)
NOMINATION DAY	
Monday 21 days before Polling Day (October 21/85)	**Monday** 28 days before Polling Day (Sept. 30/85)
REVISION PERIOD	
Total Days: 9 (October 15-23)	Total Days: 30 (August 15 - September 15)
QUALIFICATION PERIOD	
Total Days: 50 (Sept. 3 - Oct. 23)	Total Days: 184 (April 28 - October 28)
ENUMERATION PERIOD	
Total Days: 28 (Sept. 3 - 30)	Total Days: 45 (May 15 - June 30)

FIGURE B

MUNICIPAL ELECTORAL PROCESS

OPTION B

CURRENT	PROPOSED
POLLING DAY	
Second Monday in November (November 12/85)	**Third Monday** in October (October 21/85)
MANDATORY ADVANCE POLL	
Saturday 9 days before Polling Day (November 2/85)	**Saturday** 9 days before Polling Day (October 12/85)
NOMINATION DAY	
Monday 21 days before Polling Day (October 21/85)	**Monday** 28 days before Polling Day (Sept. 23/85)
REVISION PERIOD	
Total Days: 9 (October 15-23)	Total Days: 30 (August 15 - September 15)
QUALIFICATION PERIOD	
Total Days: 50 (Sept. 3 - Oct. 23)	Total Days: 184 (April 21 - October 21)
ENUMERATION PERIOD	
Total Days: 28 (Sept. 3 - 30)	Total Days: 45 (May 15 - June 30)

FIGURE C

MUNICIPAL ELECTORAL PROCESS

OPTION C

CURRENT	PROPOSED
POLLING DAY	
Second Monday in November (November 12/85)	**Third Tuesday** in October (October 22/85)
MANDATORY ADVANCE POLL	
Saturday 9 days before Polling Day (November 2/85)	**Saturday** 10 days before Polling Day (October 12/85)
NOMINATION DAY	
Monday 21 days before Polling Day (October 21/85)	**Monday** 29 days before Polling Day (Sept. 23/85)
REVISION PERIOD	
Total Days: 9 (October 15-23)	Total Days: 30 (August 15 - September 15)
QUALIFICATION PERIOD	
Total Days: 50 (Sept. 3 - Oct. 23)	Total Days: 184 (April 22 - October 22)
ENUMERATION PERIOD	
Total Days: 28 (Sept. 3 - 30)	Total Days: 45 (May 15 - June 30)

FIGURE D

MUNICIPAL ELECTORAL PROCESS

OPTION D

CURRENT	PROPOSED
POLLING DAY	
Second Monday in November (November 12/85)	**Third Sunday** in October (October 19/85)
MANDATORY ADVANCE POLL	
Saturday 9 days before Polling Day (November 2/85)	**Saturday** 8 days before Polling Day (October 12/85)
NOMINATION DAY	
Monday 21 days before Polling Day (October 21/85)	**Monday** 27 days before Polling Day (Sept. 23/85)
REVISION PERIOD	
Total Days: 9 (October 15-23)	Total Days: 30 (August 15 - September 15)
QUALIFICATION PERIOD	
Total Days: 50 (Sept. 3 - Oct. 23)	Total Days: 184 (April 19 - October 19)
ENUMERATION PERIOD	
Total Days: 28 (Sept. 3 - 30)	Total Days: 45 (May 15 - June 30)

TABLE 1

MUNICIPAL ELECTION POLLING DATES

Jurisdiction	Date of Regular Polling Day
Alberta	3rd Monday in October[1] 4 weeks after nomination day[2]
British Columbia	3rd Saturday in November
Manitoba	4th Wednesday in October (generally)
New Brunswick	2nd Monday in May
Newfoundland	2nd Tuesday in November
Nova Scotia	3rd Saturday in October
Northwest Territories	2nd Monday in December
Ontario	2nd Monday in November
Prince Edward Is.	November[3] 1st Monday in November[4]
Quebec	1st Sunday in November[5]
Saskatchewan	4th Wednesday in October[6] Wednesday of 2nd week following nomination day (which is third Monday in October)[7] 2nd last Wednesday in September, or last Wednesday in September, or 1st Wednesday in October[8] 4th Saturday in July[9]
Yukon	2nd Thursday in November

1. Local Authorities
2. Summer Villages
3. Special Meeting for Community Elections
4. Towns
5. Unless municipality passes by-law, in which case the date is 1st Monday in November
6. Urban Municipalities
7. Rural Settlements
8. Northern Settlements
9. Resort Villages

TABLE 2

MUNICIPAL POLLING HOURS

Jurisdiction	Advance Polling Hours	Regular Polling Hours
Alberta		
a. generally	fixed by resolution	10 a.m.-8 p.m. (10)
b. summer villages	fixed by resolution	12 a.m.-9 p.m. (9)
British Columbia	fixed by by-law	8 a.m.-8 p.m. (12)
Manitoba	5 p.m.-9 p.m. (4)	8 a.m.-8 p.m. (12)
New Brunswick	5 p.m.-10 p.m. Friday (5) 10 a.m.-3 p.m. Saturday (5)	10 a.m.-8 p.m. (10)
Newfoundland	8 a.m.-8 p.m. (12)	8 a.m.-8 p.m. (12)
Northwest Territories	10 a.m.-7 p.m. (9)	10 a.m.-7 p.m. (9)
Nova Scotia	12 a.m.-8 p.m. (8)	8 a.m.-7 p.m. (11)
Ontario	9 a.m.-8 p.m. (11)	11 a.m.-8 p.m. (9)
P.E.I. (towns only)	9 a.m.-7 p.m. (10)	9 a.m.-7 p.m. (10)
Quebec	2 p.m.-10 p.m. (8)	9 a.m.-6 p.m. (9); council may by by-law fix a later hour, not exceeding 8 p.m. (11)
Saskatchewan		
a. urban and northern	10 a.m.-8 p.m. (10)	10 a.m.-8 p.m. (10); polls in hospital must be kept open 4 consecutive hours
b. rural	fixed by council	9 a.m.-5 p.m. (8); may extend up to 3 hours
Yukon	fixed by council	minimum of 10 consecutive hours between 7 a.m.-11 a.m.; council sets hours

TABLE 3

FEDERAL, PROVINCIAL/TERRITORIAL POLLING HOURS

Jurisdiction	Advance Polling Hours	Regular Polling Hours
Canada	12 p.m.-8 p.m. (8)	9 a.m.-8 p.m. (11)
Alberta	9 a.m.-8 p.m. (11)	9 a.m.-8 p.m. (11)
British Columbia	1 p.m.-9 p.m. (8)	8 a.m.-8 p.m. (12)
Manitoba	12 p.m.-6 p.m. (6) returning office 8 a.m.-8 p.m. (12) others	8 a.m.-8 p.m. (12)
New Brunswick	8 a.m.-8 p.m. (12)	8 a.m.-8 p.m. (12)
Newfoundland	Provincial Cabinet fixes the hours of advance polls	8 a.m.-8 p.m. (12)
Northwest Territories	4 p.m.-8 p.m. (4)	9 p.m.-8 p.m. (11)
Nova Scotia	2 p.m.-10 p.m. (8)	8 a.m.-7 p.m. (11)
Ontario	11 a.m.-8 p.m. (9)	9 a.m.-8 p.m. (11)
P.E.I.	9 a.m.-7 p.m. (10)	9 a.m.-7 p.m. (10)
Quebec	2 p.m.-10 p.m. (8)	10 a.m.-8 p.m. (10)
Saskatchewan	3 p.m.-10 p.m. (7)	9 a.m.-8 p.m. (12)
Yukon	2 p.m.-8 p.m. (6)	8 a.m.-8 p.m. (12) general 10 a.m.-4 p.m. (6) institutions only

TABLE 4

PROXY VOTING IN MUNICIPAL ELECTIONS

Jurisdiction	Electors Eligible for Proxy
Newfoundland	(a) in service of merchant marine; (b) a fisherman; (c) a patient; (d) a full-time student at an educational institution; (e) a worker at a prescribed construction site; or (f) certified by a doctor as infirm and unable to vote.
Nova Scotia	(a) a fisherman or mariner serving on ship registered to Canada or Commonwealth; (b) at offshore oil rig; (c) a patient in hospital of 10 or more beds if no polling place available; (d) a full-time armed forces member; (e) unmarried full-time student at educational institution; (f) a resident of home for aged; (g) ill or physically incapacitated; or (h) blind.

ENDNOTES

1. "Providing Accessibility for the Elderly and Handicapped" The FEC Journal of Election Administration Volume No. 13, Winter, 1986

CHAPTER SEVEN

RECOUNTS

Introduction

The November 1985 municipal elections witnessed several recounts. In at least two instances, the election night results were found to be incorrect because the number of votes had been counted improperly. Public criticism has focussed on the practice of making affected candidates bear the legal costs of the recount, and on the number of errors made by election officials.

Current Legislation

Section 83(2) of the Municipal Elections Act enables an elector to apply to a judge for a recount in the event of an alleged irregularity in the counting of the votes or the ballots. Also, a council or school board may request a recount if it is perceived to be desirable in the public interest. The time restrictions for making an application for a recount are set out in the legislation and are different for an elector than for a municipal council or school board. The Act provides that an elector must act within 14 days after the municipal

clerk has declared the election results. The elector is required to support his/her application by an affidavit stating the grounds for a recount, and must deposit $100 with the court as security for the costs of the application. A municipal council or a school board must act within four weeks after the municipal clerk has declared the election results, by passing a resolution which declares that a recount or a final addition is in the public interest.

The decision to grant a recount lies with the judge hearing the application, except where a municipal council or a school board has passed a resolution, in which case the presiding judge must hold a recount. There is no discretion in the matter. The judge conducting the recount follows the procedure set out in the Act. The costs of the recount are at the discretion of the judge, who may award them to or against any party to the proceeding.

The 1985 Elections Experience

The most recent municipal elections sparked an unprecedented number of recounts. To our knowledge, 32 recounts took place across the province (Table 1). Some of the recounts overturned the election results, while others confirmed them.

The factors contributing to the recounts were: human error in adding the final votes, improperly counted votes, closeness of votes, computer foul-ups, and problems in determining the validity of ballots. The post-November election recounts raised a number of issues, including determination of the validity of ballots, time allowed for recount applications and the question of who pays the costs.

Ballot Valid or Invalid?

The Committee examined photocopies of a number of ballots. It found that, given the imprecision of the current provisions of the legislation, a "grey area" exists. There is too much room for subjectivity in the determination of the ballots' validity. For example, the ballot depicted in Figure A was found to be a valid ballot, whereas a ballot depicted in Figure B was declared invalid.

Section 59(a) of the Municipal Elections Act permits voters to mark their ballots with a cross or other mark. This has resulted in a judicial interpretation that there is a broad range of marks which are acceptable (Figures C and F), and that such marks do not have to be within the circle or even to the right of the candidates' names (Figures D and E). The acceptable practice has been that, provided the intent of the voter is clear, a ballot is valid. Furthermore, the judge or

A

FOR THE OFFICE OF - - - - - - - VOTE FOR TWO CANDIDATES	
CANDIDATE A	◯
CANDIDATE B	⊗
CANDIDATE C	◔

VOTES FOR CANDIDATES
B AND C RULED VALID

B

FOR THE OFFICE OF - - - - - - -	
CANDIDATE A	◯
CANDIDATE B	◯
CANDIDATE C	◔

VOTE FOR CANDIDATE
C RULED INVALID

C

FOR THE OFFICE OF - - - - - - -	
CANDIDATE A	✳
CANDIDATE B	☺
CANDIDATE C	☺

D

FOR THE OFFICE OF - - - - - - -	
CANDIDATE A	◯
CANDIDATE B	◯
X CANDIDATE C	◯

E

FOR THE OFFICE OF - - - - - - -	
CANDIDATE A	◯
CANDIDATE B	◯
CANDIDATE C	✓

F

FOR THE OFFICE OF - - - - - - -	
CANDIDATE A	✓
CANDIDATE B	◔
CANDIDATE C	⊖

election official deals with the ballots in the condition in which they are presented. A ballot's validity, then, is strictly a judgement call by the presiding judge or election official. Under existing case law, the only ballots that can be rejected outright are those not supplied by the DRO[1].

It is the Committee's view that this practice is not satisfactory and, if the recent recount results are any indication, the validity of the counting process is questionable. To alleviate the problem, the Committee proposes that initial recounts be handled by an elections tribunal established by the proposed Ontario Municipal Elections Commission. Such an idea is not new, and would assist the Attorney General's efforts to reduce the burden on the courts. Three provinces use a similar approach, which does not involve the judiciary, to deal with municipal recounts: Alberta, Newfoundland and Prince Edward Island. The remaining jurisdictions, municipal, provincial and federal, follow Ontario's method of conducting recounts (Tables 2 and 3).

After reviewing a number of ballots, the Committee has concluded that the methods by which the validity of ballots is determined at present are inadequate, and that the results have placed in jeopardy the credibility and vitality of the system. The Committee believes that the legislation should require that ballots be marked consistently, preferably with an "X" or a

FIGURE G

MARK YOUR BALLOT IN THE CIRCLE

FAITES VOTRE CROIX DANS LE CERCLE

cross. The Province of New Brunswick encourages its municipal electors to mark their ballots in the circle, as shown in Figure G.

Recommendation 7: 1 **The Committee recommends that section 59(a) of the Municipal Elections Act, which refers to a cross or other mark, be amended to refer to a consistent mark, preferably a cross.**

Recommendation 7: 2 **The Committee recommends that the proposed Commission and the Chief Election Officer of Ontario study the desirability of standardizing the markings on the ballot for both municipal and provincial elections.**

Recommendation 7: 3 **The Committee recommends that the Municipal Elections Act be amended to provide that recounts be conducted by an Elections Tribunal consisting of persons who are experienced in the conduct of elections; and that the proposed Commission appoint the members of the proposed Tribunal.**

Recommendation 7: 4 **The Committee recommends that the proposed Commission establish rules to guide the members of the proposed Tribunal and election officials in determining the validity of the ballots.**

Recommendation 7: 5 **The Committee further recommends that any decision of the proposed Tribunal be subject to a final appeal to the Divisional Court.**

Time Allowed for Recounts

The present time limits - 14 days after the declaration of the election results - in which an elector could apply for a recount appear to be inadequate and inequitable. As noted by Judge Matlow in a recent case, Maria De Pasquale v. Carl Rodrigo et al., the time limits imposed by section 83(2) of the Act are too rigid and severe. The difficulty of complying with the requirements of this section is increased further by Rule 38.07(3) of the Rules of Civil Procedure, 1986, which now requires a notice period of ten days before the hearing of any application. The judge also notes that, apart from the inconsistency between the limits imposed by section 83(2) and those of Rule 38.07(3), there appears to be an equally significant problem with the wording of the provision, which poses a problem of interpretation as to the intent of the 14 day limit. Finally, Judge Matlow observed:

> "... in my respectful opinion, there is no reason why important electoral rights of citizens should have to be determined under a statute which is so badly drafted. The procedure can and should be set out in plain and unambiguous language."

The Committee agrees with Judge Matlow's statement that the procedure for recounts should be set out in "plain and unambiguous language". Furthermore, the time limits for the initiation of a recount should be the same for electors, municipal councils and school boards.

Recommendation 7: 6 **The Committee recommends that the time limit for an elector, municipal council or school board to make an application for a recount be 30 days after the declaration of results, and further recommends that procedures for recounts be drafted in plain and unambiguous language.**

Who Pays the Costs of Recounts?

The question of who pays for a recount was raised following the 1985 municipal elections. As one brief rightly pointed out, there are a number of costs associated with the initiation of a recount. First, the legislation requires that $100 security for costs be posted by the applicant prior to the hearing of the application. Second, an applicant is faced with the legal expense of bringing the application itself. Finally, an applicant could also be faced with paying the costs of the recount. A survey of newspaper reports and submissions on this issue indicates that the legal and total recount costs could be staggering. It is estimated that such costs range from $100 to $20,000. As noted earlier, under the legislation, the costs of

a recount are at the discretion of the judge, who may award them to or against any party to the proceeding. It is the view of the Committee that the costs of recounts conducted by the proposed Tribunal should be borne by the jurisdiction involved, i.e., municipality, school board or public utilities' commission.

Recommendation 7: 7 **The Committee recommends that the costs of recounts conducted by the proposed Tribunal be borne by the jurisdiction involved.**

"Automatic" Recounts

The Committee received a number of submissions relating to the conditions and procedures for recounts. Most of the submissions suggested that "automatic" recounts be conducted; a number of them supported the status quo; and some suggested that the costs be borne by the municipality. The criteria suggested for "automatic" recounts were as follows:

- when the margin of victory is less than 2 per cent; or

- when the margin of victory is within 5 per cent for candidates elected by wards or .25 per cent for those elected at large.

The Committee members also considered Private Member's Bill 104, introduced by Andrew S. Brandt, MPP for Sarnia, which proposes that a judicial recount be held under the following circumstances:

(a) where the winning candidate receives 500 votes or more and has a margin of victory that is 1 per cent or less of the total votes cast for him or her; or

(b) where the winning candidate receives fewer than 500 votes and has a margin of victory of five votes or less.

The Bill also proposes that the costs of such a recount be borne by the municipality.

The Committee agrees with the following statement, excerpted from a recent brief submitted by Annamarie P. Castrilli and Peter Proszanski:

> "The right of individuals to run for public office is a vital one in a democratic society. The contest inevitably entails the expenditure of a great deal of time, effort and money. It is certainly reasonable, therefore, to argue that if two candidates in an election are within a narrow range of votes from each other in the contest for elected office, the outcome should be tested and resolved

> as economically and expeditiously as possible. By far, the most cost efficient and effective solution to resolve election disputes would be to have automatic recounts paid for by the municipality in such circumstances. These would eliminate the need for applications for the most part and reduce what could be prohibitive costs. [Such process, therefore, will] safeguard ... the 'important electoral rights of citizens' to challenge a given result without fear of the process and of the expenses involved."

The issue, then, is not whether an "automatic" recount is desirable, but under which circumstances it should be initiated and held.

Formula A

Under federal legislation, if the difference is less than 25 votes, a recount is conducted at the request of a returning officer. If this threshold is used in municipal elections, it is estimated that 525 recounts would be conducted based on the results of the 1982 elections.

Formula B

Using a formula based on a .5 per cent margin between the votes cast for the winning candidate and the runner up in

municipalites with a population of 20,000 or more, and a 25 vote spread in municipalities with a population of less than 20,000, it is estimated that 578 recounts would be conducted, based on the results of the 1982 elections.

Formula C

Using a formula based on a .5 per cent margin between the votes cast for the winning candidate and the runner up in municipalities with a population of 20,000 or more, and a ten vote spread in municipalities with a population of less than 20,000, a potential 358 recounts could occur, based on the results of the 1982 elections.

From these estimates, the Committee concludes that an "automatic" recount formula should be based on both a percentage of the votes cast and a fixed number margin between the winning candidate and the runner up.

Recommendation 7: 8 **The Committee recommends that Formula C be implemented; namely, that where the margin between the winning candidate and the runner up is less than .5 per cent of the votes cast in municipalities with a population of 20,000 or more, or where a spread of less than ten votes exists between the winning candidate and the runner up in a municipality with a population of less than 20,000, a recount will be held at the request of a candidate.**

Recommendation 7: 9 The Committee recommends that municipalities and school boards continue to be permitted to request a recount for any office in the public interest.

Recommendation 7: 10 The Committee recommends that any elector continue to be permitted to request a recount by an application to the proposed Tribunal, supported by an affidavit attesting to an impropriety.

Recommendation 7: 11 The Committee further recommends that the provisions relating to recounts be set out in separate and clear clauses under section 83 of the Municipal Elections Act.

TABLE 1

JURISDICTIONS REPORTING THE OCCURRENCE OF A RECOUNT FOLLOWING THE 1985 MUNICIPAL ELECTIONS

Jurisdiction	Number of Recounts
Bradford	1
Black River-Matheson	1
Collingwood, Town of	1
Cornwall, Township of	1
Etobicoke	1
Fenelon Falls	1
Gloucester	1
Dundas	1
Ignace	1
Longlac	2
Markham	1
McKellar	1
North Bay	1
Olden	1
Oshawa	2
Petawawa, Township of	1
Peterborough, City of	1
Kincardine Board of Education	1
Lakehead Board of Education	1
Lambton County Board of Education	1
South River	1
Schreiber	1
Thornloe	1
Wilberforce	1
Maidstone	1
Wasaga Beach	1
Windsor	1
Wingham	1
York, City of	2
	32

TABLE 2

PROVINCIAL AND FEDERAL RECOUNT PROCEDURES

Jurisdiction	Initiation	Conducted By	Costs	Appeals
Canada	-returning officer - any person	for Ontario, Judge of District Court	-if by returning officer, candidates may apply for reimbursement of costs -if by any person, and results don't change, applicant pays costs of person appearing to be elected	-to Judge of Trial Division of Supreme Court of Ontario
Alberta	-candidate or official agent	Judge of Court of Queen's Bench	-no general provisions -the appellant leaves deposit, which is distributed at discretion of judge	-to Court of Appeal -may be further appealed to Supreme Court of Canada
British Columbia	-any person	County Court Judge	-no provisions	-to Judge of Court of Appeal
Manitoba	-returning officer -any candidate or voter	Judge of Court of Queen's Bench	-no costs awarded, each party responsible for own costs	-to Court of Appeal
New Brunswick	-elector	Judge of Court of Queen's Bench	-where difference 26 votes or more, same provisions as Canada -where difference 25 votes or less, at the	-to Judge of Court of Appeal

TABLE 2

PROVINCIAL AND FEDERAL RECOUNT PROCEDURES

Jurisdiction	Initiation	Conducted By	Costs	Appeals
New Brunswick (continued)			expense of returning officer	
Newfoundland	-candidate or voter	Judge of Trial Division of Supreme Court	-at discretion of Judge	-no provisions
Northwest Territories	-returning officer -any person -see Canada	Judge of Supreme Court of N.W.T.	-see Canada	-to Judge of Court of Appeal
Nova Scotia	-returning officer -candidate or official agent	Judge of County Court	-at discretion of Judge	-no provisions
Ontario	-candidate or elector	Judge of District Court of Ontario	-at discretion of Judge	-to Judge of Supreme Court of Ontario
Prince Edward Is.	-any candidate	Provincial Court Judge	-if recount not change results, costs may be assigned to petitioner	-to Judge of Supreme Court of P.E.I.
Quebec	-returning officer -any reliable person -2nd place candidate	Judge of Provincial Court	-person who demanded recount pays no cost (runner up or mandatory) -where application by others and elections	-to Judge of Court of Appeal

TABLE 2

PROVINCIAL AND FEDERAL RECOUNT PROCEDURES

Jurisdiction	Initiation	Conducted By	Costs	Appeals
Quebec (continued)			results unchanged, costs of candidate declared elected, assumed by person who demanded recount	
Saskatchewan	-candidate or business manager	Judge of Court of Court of Queen's Bench	-if # less than prescribed formula, paid by returning officer -if not, but returning officer failed to comply with duties, paid by returning officer -otherwise, at discretion of judge	-to Judge of Court of Appeal
Yukon	-see Canada	Judge of Supreme Court of Yukon Territory	-no provisions	-no provisions

TABLE 3

MUNICIPAL RECOUNT PROCEDURES

Jurisdiction	Initiation	Conducted By	Costs	Appeals
Alberta	-candidate -returning officer -in case of by-law or question, agent appointed by returning officer on request of two electors	returning officer or or Court of Queen's Bench	-by returning officer, no provisions -by Court of Queen's Bench, all costs defrayed by local jurisdictions, applicant, or any persons served with notice	no provisions
B.C.	not specified	County Court	no provisions	no provisions
Manitoba	-returning officer on behalf of local authority -any person	Judge of Queen's Court Bench	-if applied for by R.O., cost borne by local authority -if by any person, costs apportioned by judge	no provisions
New Brunswick	-Deputy Municipal Electoral Officer -candidate	Judge of Court of Queen's Bench	-if DMEO, no provisions -if candidate, where difference of 26 votes or more and election overturned, cost of all parties paid by Ministry	no provisions

TABLE 3

MUNICIPAL RECOUNT PROCEDURES

Jurisdiction	Initiation	Conducted By	Costs	Appeals
New Brunswick (continued)			-if not overturned, costs paid by petitioner -if difference 25 votes or less, all costs paid by Ministry	
Newfoundland	-any candidate or his agent	-returning officer or, where returning officer is DRO, Judge of Provincial Court	-where no improvement in standing or position, applicant must pay costs determined by returning officer	no provisions
Northwest Territories	-any elector	Judge of Supreme Court of Northwest Territories	-at discretion of Judge	no provisions
Nova Scotia	-returning officer -clerk of municipality, candidate or elector	County Court or Provincial Court	-at Judge's discretion -municipality must be given a chance to be heard where costs ordered against it	no provisions

TABLE 3

MUNICIPAL RECOUNT PROCEDURES

Jurisdiction	Initiation	Conducted By	Costs	Appeals
Ontario	-clerk of municipality -elector -council or school board	Judge of District Court	at discretion of Judge	to Divisional Court
P.E.I.	-any candidate	-in community election, administrator of municipality -in town elections, Provincial Court Judge	no provisions	no provisions
Quebec	-returning officer -any person	Judge of Provincial Court	-where recount doesn't change results, applicant assumes costs of elected candidate	no provisions
Saskatchewan	any elector or candidate	Court of Queen's Bench	at discretion of Judge	no provisions
Yukon	not specific	Supreme Court of Yukon Territory	no provisions	no provisions

ENDNOTES

1. Russell, R. "Is the Ballot Valid or Invalid? Update 1985", Municipal World, October 1985.

CHAPTER EIGHT

VOTER TURNOUT AND AWARENESS

Introduction

Voting occupies a central place in democratic politics. It is the most common form of citizen participation. The primary purpose of voting in a democratic state is to provide a process by which members of the various levels of political authorities are chosen, reaffirmed, or changed. Moreover, the process provides the social and moral support necessary for the acceptance of a democratic system of government. In this chapter, we attempt to provide some basic descriptive data concerning the level of voter turnout in municipal elections and the level of awareness of the populace of the role and functions of local government.

Voter Turnout

It is well known that voter turnout in municipal elections is consistently and substantially lower than the level of voter turnout in provincial and federal elections, and many observers view this situation with some concern. Depending on one's perspective, low voter turnout may be indicative either of

widespread citizen apathy or of satisfaction with the institutional arrangements. In any event, the low voter turnout in municipal elections appears to cast some doubt on the notion that local government is somehow "closer to the people" than the provincial or federal governments.

There are many different explanations given for the low level of voter turnout at the local government level. A common view is that the failure to vote is due to various obstacles and that their removal would increase voter turnout. Proponents of this view note that provincial laws and local administrative practices may discourage electoral participation by making voting more difficult. For example, polling hours may adversely affect those with long and inflexible working hours. Critics of this view argue that the main causes of non-voting are: (a) the inadequate socialization of citizens who lack an understanding and an appreciation of their civic duty; and (b) the general satisfaction of the citizenry with the performance of municipal governments.

Of primary importance to the Committee is the fact that voter turnout in the last five municipal elections has been about 25 percentage points lower than voter turnout for provincial elections during the same period. Table 1 indicates that the level of voter turnout in post-1970 provincial elections has been between 57.7 and 73.1 per cent, while the figure for

municipal elections during the same period was between 42.0 to 47.8 per cent. Based on this fact, some observers of municipal politics have suggested that the low voter turnout has had a negative impact on the credibility of local government.

To draw such a conclusion, in our view, is misleading. Comparisons made between the voter turnout at different levels of government are based primarily on the percentage of electors who voted at the elections. First, the qualifications of electors vary from jurisdiction to jurisdiction - federal, provincial and municipal. More people are eligible to vote in municipal elections than in federal or provincial elections. In municipal elections the residency or non-residency qualification period is minimal, which results in larger lists of eligible voters. Second, property interest entitles a person to vote in more than one municipality. For example, the size of the electorate in the May 1985 provincial election was 5,950,295, as compared with 6,865,248 for the November 1985 municipal elections. Third, municipalities are not treated as individual units. For example, the City of Thunder Bay traditionally has a high voter turnout: 56.1 per cent in 1980, 65.5 per cent in 1982 and 55.7 per cent in the 1985 elections. Villages and towns have traditionally had higher voter turnout as compared with cities (Figure A). Historically, municipalities, such as the Cities of Toronto and North York, have had low voter turnout rates (Figures B and C).

It is interesting to note that, while voter turnout is low, the number of acclamations of both heads of council and councillors has decreased substantially. The percentage of elected heads of council in 1980 was 38.2. In 1985, it was 51.8, an increase of 26.6 percentage points. Similarly, the percentage of elected members of council in 1980 was 56.0, as compared with 71.3 in 1985, an increase of 15.3 percentage points (Figures D and E). These data clearly indicate that there is competition for municipal offices.

Finally, the municipal enumeration is quite different from that undertaken for federal and provincial elections. For the senior levels of government, enumeration simply consists of identifying voters and recording their names in the preliminary list of electors, whereas at the municipal level it is much more complex and tends to produce lists which could have electors listed more than once, simply because they own property in more than one area of the municipality.

One long-time observer of municipal politics noted to the Committee that the percentage difference between provincial and municipal voter turnouts is due to the non-factoring-out of non-residents and others not entitled to vote. Another pointed out that although there is a sizeable gap between the number of persons who vote in municipal and provincial elections, it is not sufficiently great to warrant accusations that local

government is not representative. In his view, if municipal and provincial elections were based on the same eligibility criteria, voter turnouts in municipal elections could be much higher.

Another problem is the multiplicity of offices for which municipal electors vote: mayor, reeve, deputy reeve, controllers, aldermen, councillors, public or separate school trustees, and public utilities' commissioners. It is difficult for the media to provide adequate coverage of the campaigns of all the candidates for the various offices. As one observer put it:

> "... the attention of the media is spread across a number of local governments, each with its own issues and sets of candidates. There is not the focussing of interests that is possible at the national and provincial level, and the dramatization which heightens public awareness. This focussing of media attention together with the role of political parties, raises public consciousness to unusual levels comparable in some respects to the hype over major sports events. This level of interest is achieved at the local level only in unusual circumstances. It is this heightened level of attention which largely explains the difference between federal and provincial election turnouts and it is suggested that the discrepancies

between provincial and local turnouts are related to similar differences."[1]

Another relevant point is that voter turnout in municipal elections should not be looked at in isolation, but as part of the wider process of municipal government. A system which people can understand, which is simple and which has elements of certainty was identified as what is needed, and it was pointed out that what is sensible at the provincial and national levels is not necessarily appropriate for the municipal level. Low voter turnout figures for municipal elections may not be particularly significant. They may reflect apathy because voters believe they cannot influence the system, or apathy because they are satisfied with the system. Turnout figures are meaningless in isolation, and a high turnout does not signify a more democratic system. It was suggested that there should not be too much concern about low turnout for municipal elections, as the electors know their municipal politicians better than those representing the senior levels of government, and find it easier to contact them when problems arise. Those who produced a study for the now-defunct Bureau of Municipal Research in 1976 could not find a pattern for low voter participation. It appears that the solution to the problem does not lie with the institutional arrangements, but with the level of awareness and motivation of the electors.

Public Awareness

A study undertaken by the Waterloo Region Review Commission in 1978 provided us with some surprising results. Members of the public were asked to identify the agencies responsible for education, flood control, fire and police. The results were very disappointing: 43.5 per cent of the respondents could not identify one of the responsible agencies; 24.3 per cent of the respondents identified one of the agencies involved correctly; and only 1 per cent of the respondents could correctly identify all four of the agencies.

A survey conducted by the Office of the Chief Electoral Officer of Canada found that the public is lacking in awareness. The survey sample consisted of 16 and 17 year-old students who had enrolled in a civics course from across the country, and who were an extremely bright group of students. The survey was conducted prior to the course and the results were staggering: 70 per cent of the students responding indicated that they were not aware of their rights to vote or to be a candidate. The students' knowledge of terminology proved to be poor. A majority thought that "returning officer" referred to a candidate elected for a subsequent term, or a candidate running for a second time. A mere 3 per cent understood what a returning officer is and only 37 per cent understood what an enumerator is. The students' knowledge derived from the three

media sources equally. Information derived from politicians scored the lowest. The Committee was informed that Manitoba conducted a survey of its college students, who proved to have a dismal knowledge of civics, and that surveys in Alberta and Quebec showed similar results.

The Committee believes that local government education in the Province is inadequate. Textbooks used are far out of date; for example, they state that a person must be twenty-one years of age to vote. Australia and the United States have made considerable inroads regarding voter education. Australia has a teachers' guide which includes slides to show to students and up-to-date pamphlets on its government. The United States has the most sophisticated voter education programs that cover both children in schools and adults. For example, the Voter Education Curriculum Guide developed by the National Association of Secondary School Principals (NASSP) is a 75-page book on political activities with lesson plans in the form of classroom discussion, research projects, debate issues, reading topics and committee reports. It includes a mock convention and election, polls and surveys, lists of multi-media and games, a bibliography and a glossary of election terms.

According to NASSP, the guide is a regular part of high school curricula and yearly activities in all fifty states and Washington D.C. The overall aims of the guide are stated as follows:

"1. to provide teachers with useful and timely voter education material;

2. to increase student awareness and interest in our democratic process;

3. to prepare students for their civic responsibilities as adults;

4. to familiarize each student with local registration procedures and laws;

5. to register all students of voting age;

6. to enhance each student's ability to analyze ballot issues; and

7. to acquaint all students with members of their community who are active participants in the political process."[2]

The NASSP's approach to voter education is to present straight factual information. This curriculum features more academic activities based on historical data and election laws than motivational participatory activities designed to dispel student voter apathy. Each of the curriculum's five parts

(Part I: Appreciate the Right to Vote; Part II: Understanding Voter Registration; Part III: The Importance of Issues in Elections; Part IV: Candidates' Views and Qualities; Part V: Participation in Campaigns and Elections) are divided into subtopics which give background information, discussion questions, and research topics, followed by student exercises.

A number of briefs and presentations suggested to the Committee ways and means of improving voter turnout and public awareness of the electoral process. These include:

(a) publishing a sample ballot (Figure F);

(b) posting of card notices to remind the electorate to ensure they are enumerated and to encourage voting. Such notices could be placed in stores, in a conspicuous location, such as next to the cash register;

(c) establishment of local information centres and information booths;

(d) advertising of council or committee meetings;

(e) cable broadcasting of council meetings;

(f) handbooks published by municipalities to provide basic information on their structure, organization, functions and services;

(g) holding local government week in the fall;

(h) placing all municipal ads in one page or section of the newspaper. The ads should include articles on the affairs of the municipality and practical information, such as garbage pick-up schedules (this approach is taken by the Town of Gatineau, Quebec);

(i) notices written in simple and clear language and translated into other languages, where numbers warrant;

(j) the development of a comprehensive program within the educational system to give students a basic understanding of how all governments work and interrelate and to develop their ability to analyze critically and appreciate the variety of issues facing municipal politicians; and

(k) increased media coverage of local government politics.

It was noted by the Committee that a successful communications effort is one that is ongoing and encourages:

(a) voter awareness, which involves on-going initiatives on a day-to-day basis, including education and basic voting information; and

(b) voter motivation to stimulate participation in the process and address the electors' question, "What's in it for me?".

An awareness program must be tailored to the needs of disadvantaged groups and minorities as well as to the needs of the general public. It was stressed that it is very important for any central agency such as the Office of the Chief Electoral Officer of Canada, its counterpart in Ontario and the proposed Ontario Municipal Elections Commission to be perceived as non-partisan if it is to be an effective public awareness vehicle. It is also essential not to wait until an election is called before beginning to build voter awareness. Finally, it was noted that there should be an on-going liaison process between Elections Canada, the Office of the Chief Election Officer of Ontario and the proposed Commission.

Recommendation 8: 1 **The Committee recommends that municipalities establish, on a permanent basis, a local government awareness program which meets the needs of the entire electorate.**

Recommendation 8: 2 The Committee recommends that the Ministry of Education, in cooperation with the school boards, develop and implement a comprehensive local government education program for use in elementary and secondary schools.

Recommendation 8: 3 The Committee recommends that the proposed Commission, in cooperation with the Office of the Chief Election Officer of Ontario and the Office of the Chief Electoral Officer of Canada, prepare and publish a lexicon of terminology used in the electoral process.

Recommendation 8: 4 The Committee recommends that the proposed Commission, in cooperation with the Office of the Chief Election Officer of Ontario and the Office of the Chief Electoral Officer of Canada, develop public awareness programs relating to the electoral process.

TABLE 1

SUMMARY OF PROVINCIAL AND MUNICIPAL VOTER TURNOUT 1970-1985

Provincial		Municipal	
Year	Per Cent	Year	Per Cent
1971	73.1	1974	43.9
1975	67.5	1978	42.8
1977	65.2	1980	42.0
1981	57.7	1982	47.8
1985	61.1	1985	43.0

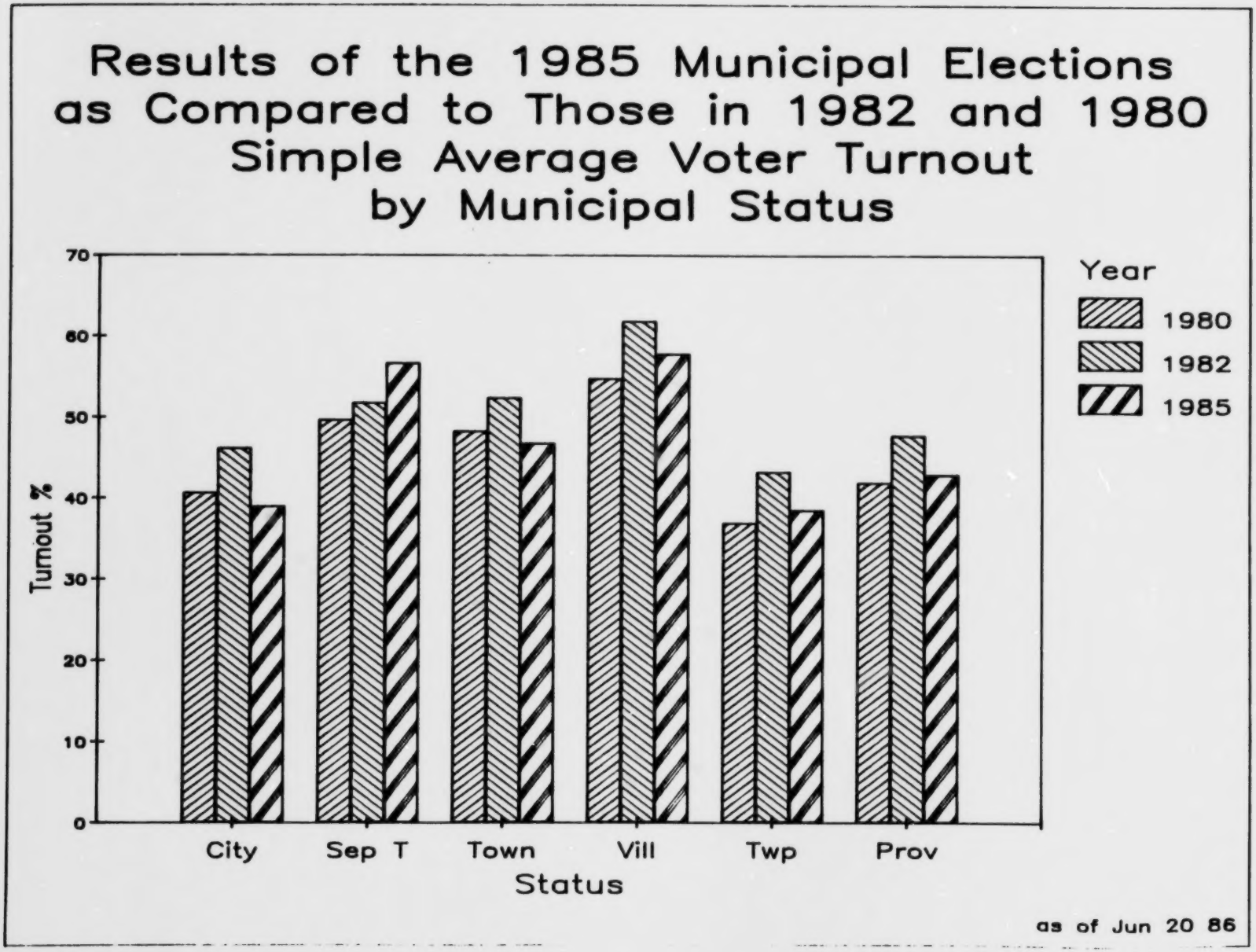

Results of the 1985 Municipal Elections
as Compared to Those in 1982 and 1980
Simple Average Voter Turnout
by Municipal Status
Turnout %
70
60
50
40
30
20
10
0
City
Sep T
Town
Vill
Twp
Prov
Status
Year
1980
1982
1985
as of Jun 20 86

FIGURE A

FIGURE B

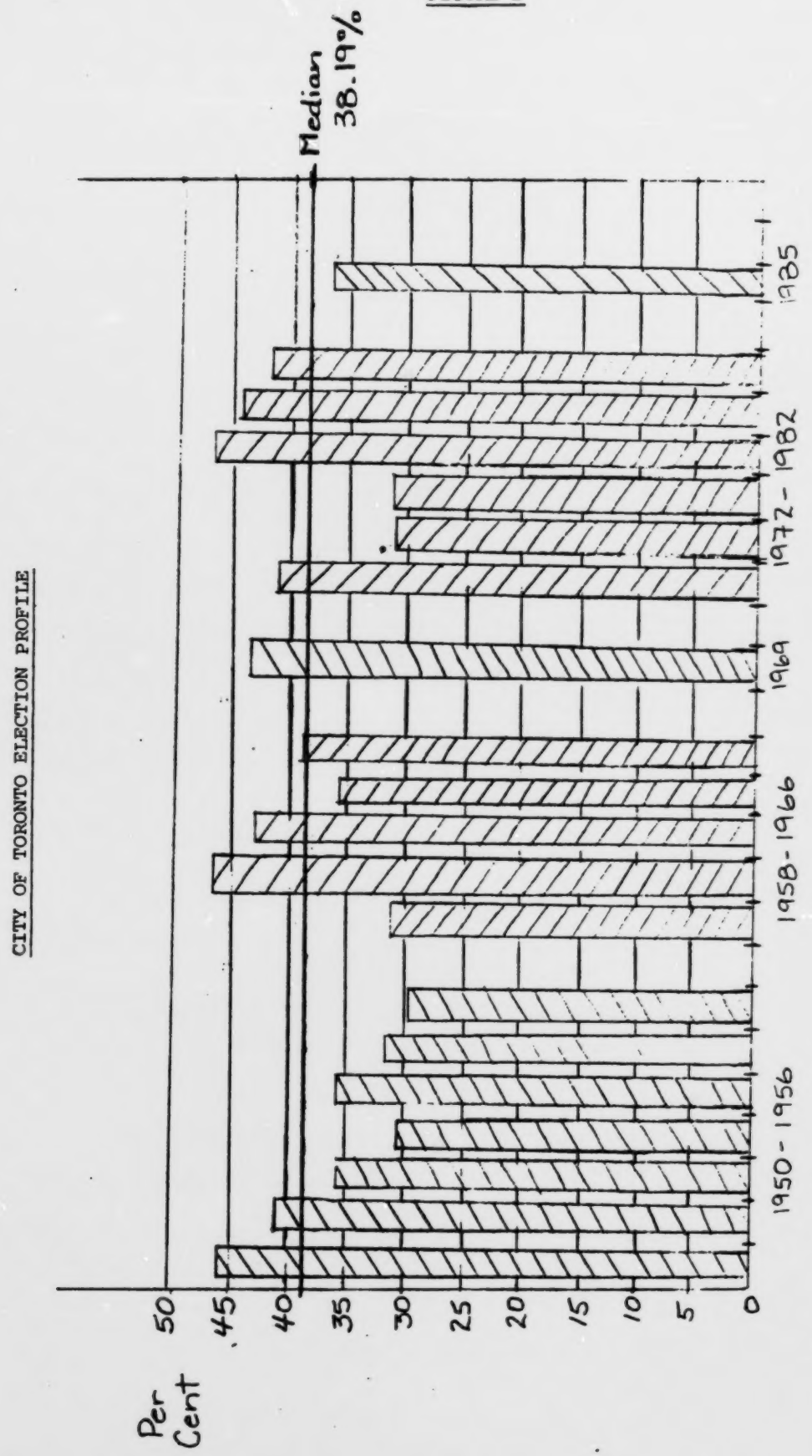
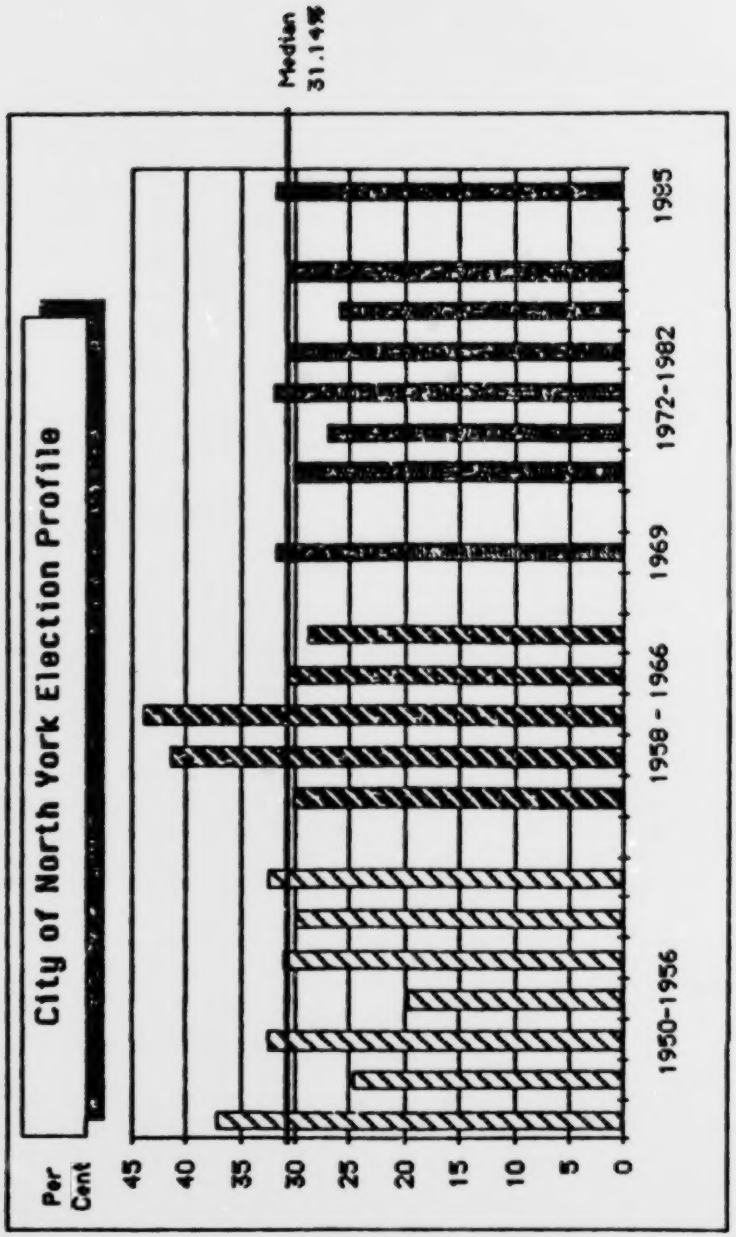

CITY OF TORONTO ELECTION PROFILE
Median
38.19%
Per Cent
50
45
40
35
30
25
20
15
10
5
0
1950-1956
1958-1966
1969
1972-1982
1985

FIGURE C


City of North York Election Profile
Median
31.14%
Per Cent
45
40
35
30
25
20
15
10
5
0
1950-1956
1958 - 1966
1969
1972-1982
1985

Results of the 1985 Municipal Elections as Compared to Those in 1982 and 1980 Heads of Council Elected/Acclaimed by Municipal Status

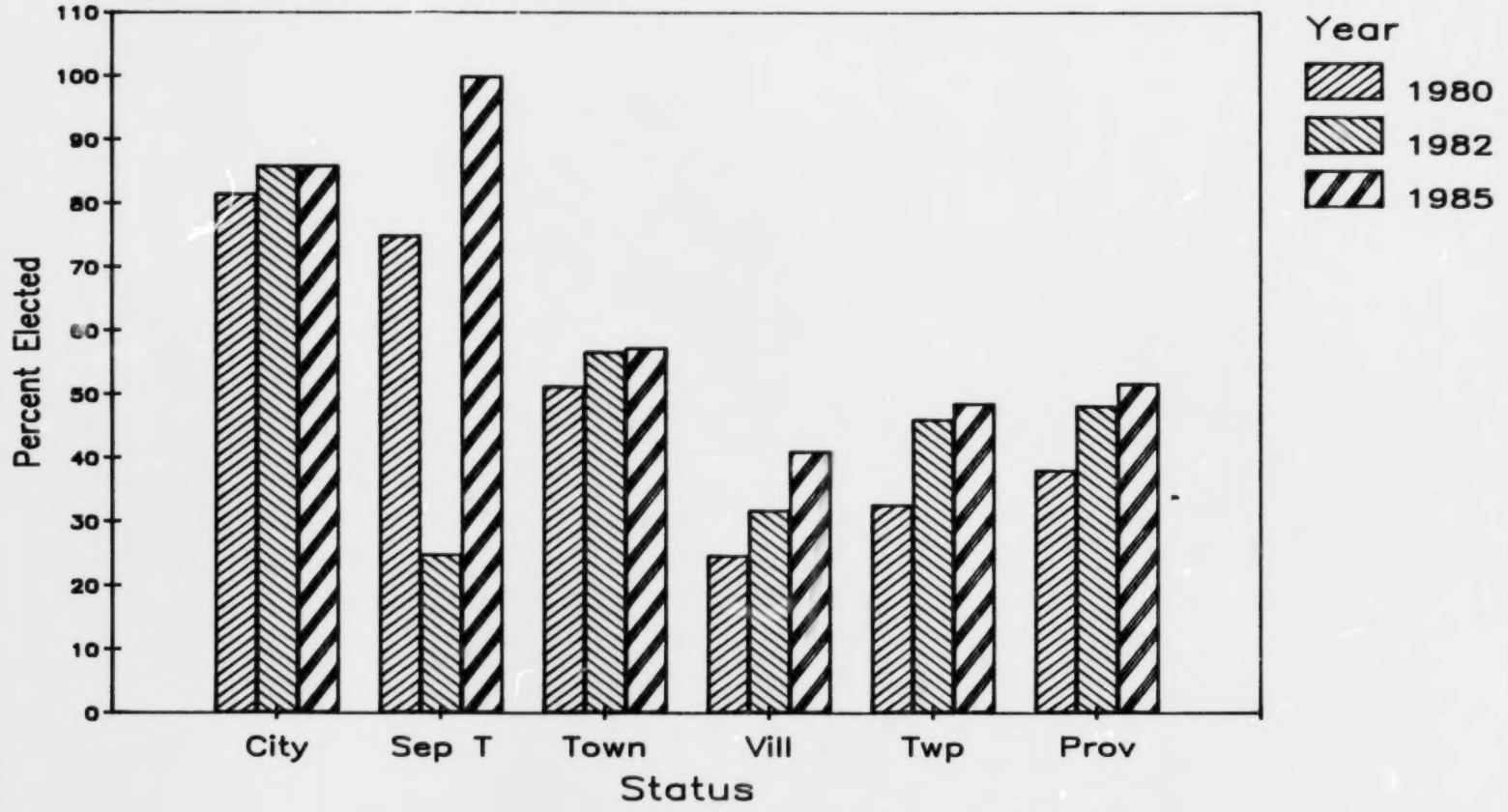


FIGURE D

Results of the 1985 Municipal Elections as Compared to Those in 1982 and 1980 Council Members Elected/Acclaimed by Municipal Status

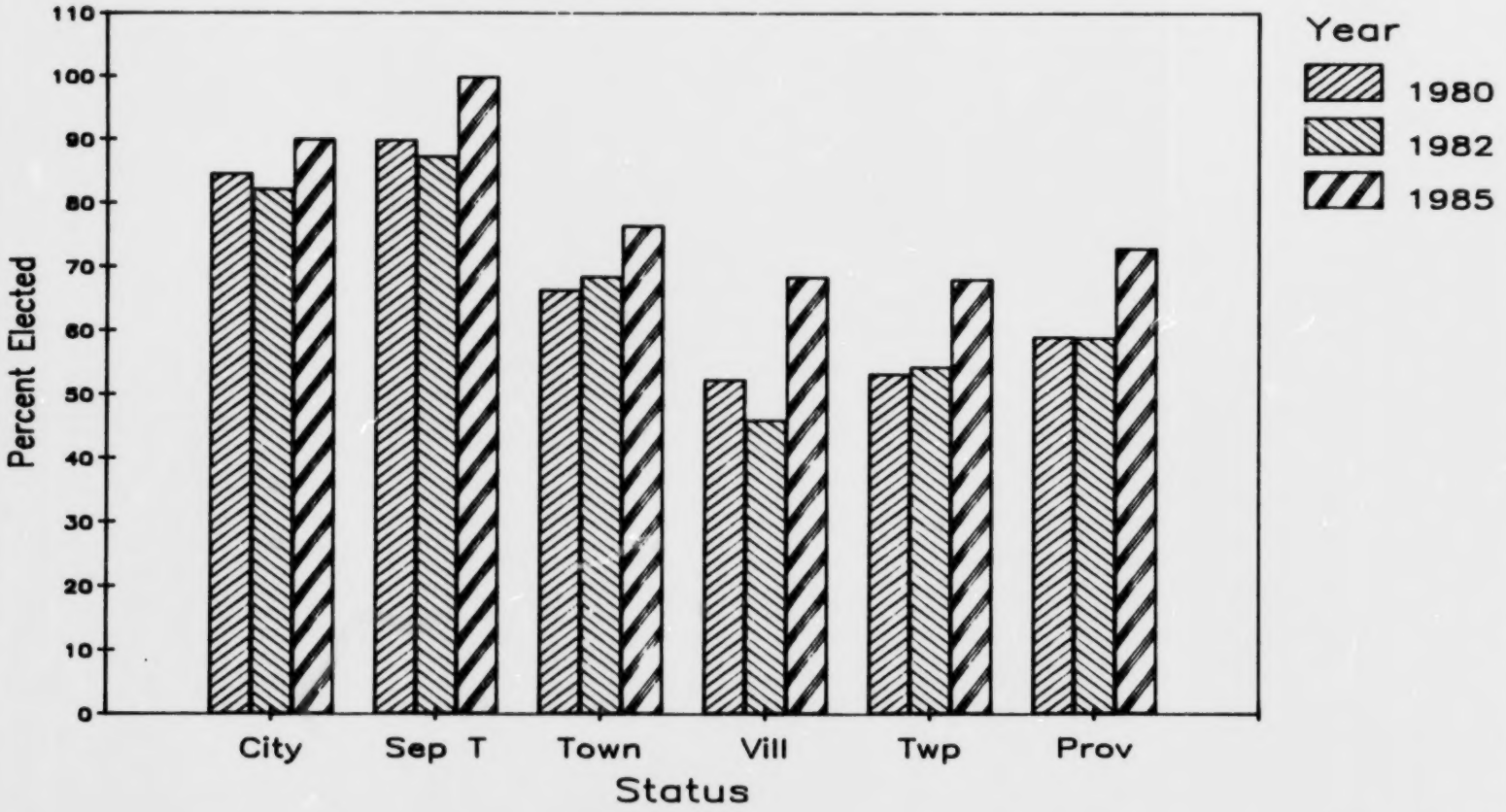
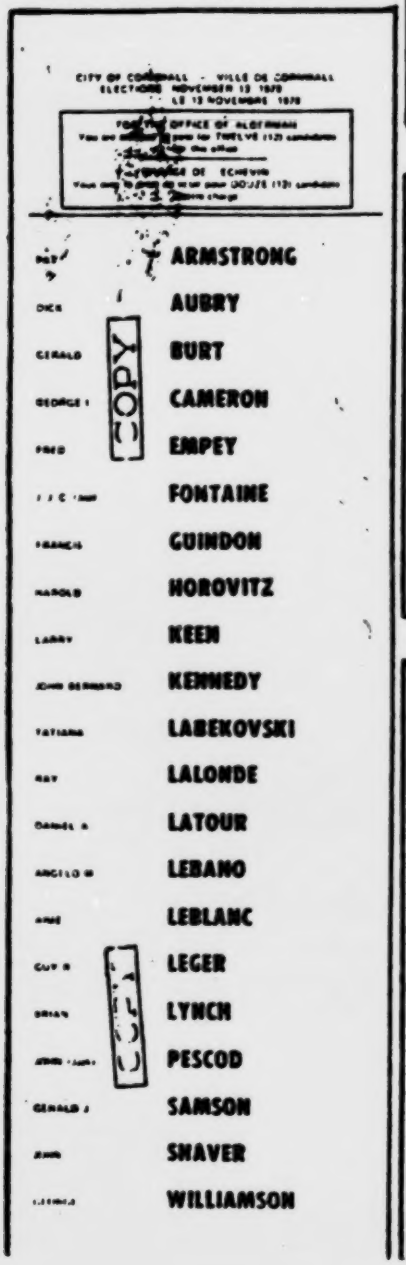


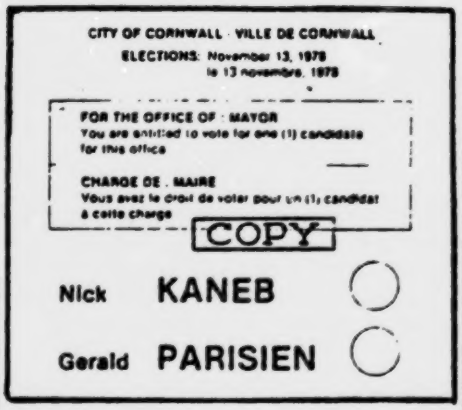
FIGURE E

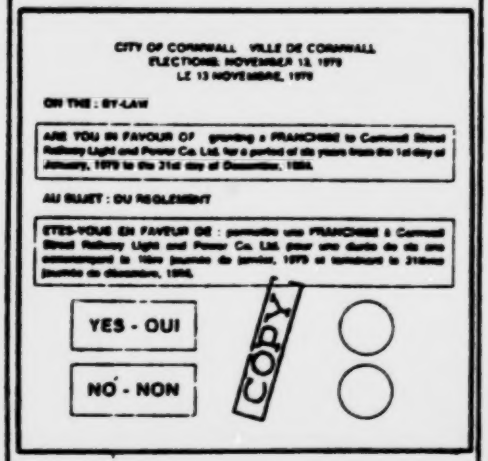
FIGURE F

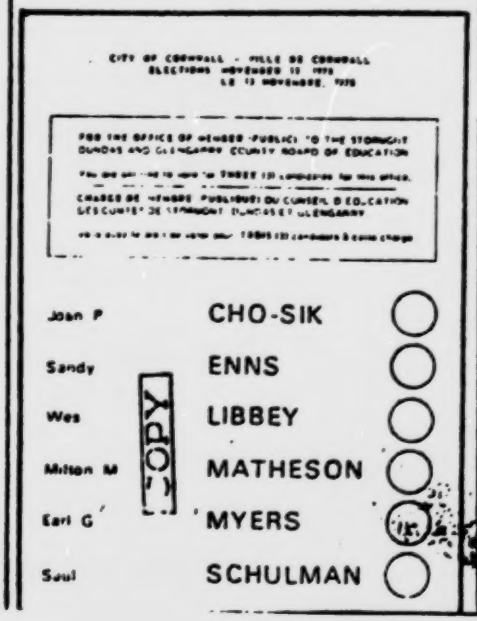
Monday's ballots

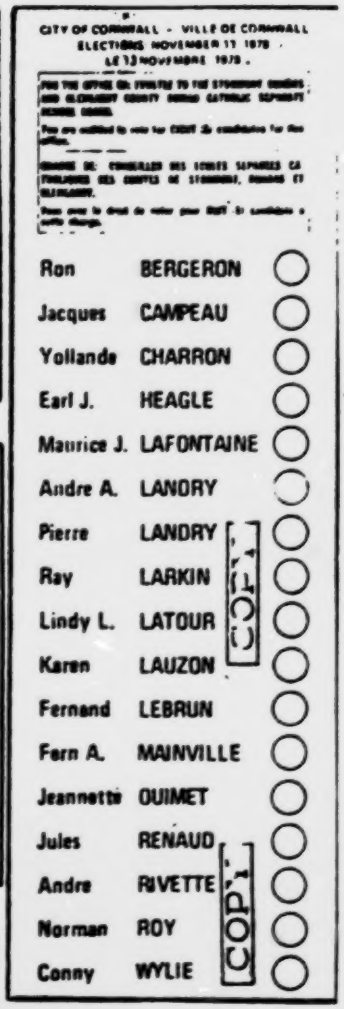
Six separate ballots have been printed for Monday's election in Cornwall. Separate school supporters will be given five ballots. Public school supporters will be handed four. One of the ballots is for extension of power supply franchise.

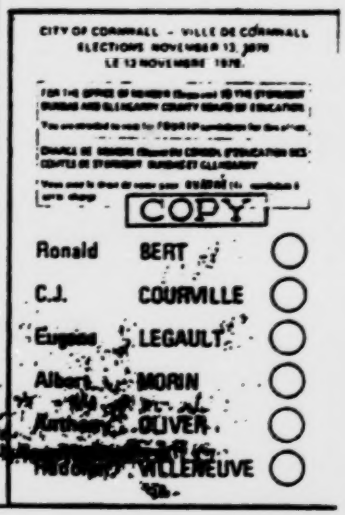



CITY OF CORNWALL - VILLE DE CORNWALL
ELECTIONS: November 13, 1978
le 13 novembre, 1978
FOR THE OFFICE OF - MAYOR
You are entitled to vote for one (1) candidate for this office
CHARGE DE - MAIRE
Vous avez le droit de voter pour un (1) candidat à cette charge
COPY
Nick KANEB
Gerald PARISIEN


CITY OF CORNWALL - VILLE DE CORNWALL
ELECTIONS: NOVEMBER 13, 1978
LE 13 NOVEMBRE, 1978
ON THE : BY-LAW
ARE YOU IN FAVOUR OF granting a FRANCHISE to Cornwall Street Railway Light and Power Co. Ltd. for a period of six years from the 1st day of January, 1979 to the 31st day of December, 1984.
AU SUJET : DU REGLEMENT
ETES-VOUS EN FAVEUR DE : permettre une FRANCHISE à Cornwall Street Railway Light and Power Co. Ltd. pour une durée de six ans commençant le 1ère journée de janvier, 1979 et terminant le 31ème journée de décembre, 1984.
YES - OUI
NO - NON
COPY


CITY OF CORNWALL - VILLE DE CORNWALL
ELECTIONS NOVEMBER 13, 1978
LE 13 NOVEMBRE, 1978
FOR THE OFFICE OF MEMBER (PUBLIC) TO THE STORMONT DUNDAS AND GLENGARRY COUNTY BOARD OF EDUCATION
CHARGE DE MEMBRE (PUBLIC) DU CONSEIL D'EDUCATION DES COMTES DE STORMONT DUNDAS ET GLENGARRY
Joan P CHO-SIK
Sandy ENNS
Wes LIBBEY
Milton M MATHESON
Earl G MYERS
Saul SCHULMAN
COPY





ENDNOTES

1. Fyfe, S. "Municipal Elections".

2. Kalba Bowen Associates, Voter Information and Education Programs 2: Voter Education Programs in Schools. National Clearinghouse on Election Administation, Federal Election Commission, Washington, D.C.

CHAPTER NINE

OBSERVATIONS AND RELATED INTERESTS

Introduction

In our examination of the municipal electoral process, a number of issues were raised which, although they are not directly related to the elections per se, do have an inpact on the electoral process. In this chapter, these issues are discussed briefly.

Timing of Legislative Changes

Immediately prior to the November 1985 elections, the Legislature passed a Bill amending the Municipal Elections Act, which caused some difficulty for those involved in the administration and conduct of elections. Bill 38 enfranchised persons in psychiatric facilities and required municipal clerks to set up additional polling stations in nursing homes and in psychiatric facilities. In a survey undertaken by the Association of Municipal Clerks and Treasurers of Ontario, it was found that, although Bill 38 did not affect all municipalities, the majority of the respondents felt that the timing of the passing of the Bill was inappropriate, as it was

too close to the elections. The elections took place on November 12, 1985, and the Bill was passed and given Royal assent on October 28, 1985. The Committee recognizes that the Legislature decides when it will enact legislation. We feel that legislation which affects the electoral rights of the populace should, insofar as is possible, be enacted well in advance of nomination and polling days. Our reasoning is that the public will then have an opportunity to be informed and that the municipal clerks, in their capacity as returning officers, will then have time to make the necessary administrative arrangements. Accordingly, we urge the Legislature to consider the enactment of legislative changes relating to the municipal electoral process at least six months prior to polling day.

Recommendation 9: 1 **The Committee recommends that the Legislative Assembly of Ontario not enact any legislation affecting the municipal electoral process within the six months immediately preceding polling day, in an election year.**

Changes in Method of Election and Composition of Councils and School Boards

In most cases, alterations in the method of election of members of council (ward basis to at-large basis and vice versa) and reductions or increases in the size of council are made as a

result of an application to the Ontario Municipal Board (OMB). In one municipality, a change in the method of election was approved in October, 1982, which was an election year. There have been several other instances in recent years where changes in the method of election or council size have received OMB approval between April and August of the election year.

Section 59 of the Education Act permits changes in the composition of a school board to take place until mid-September of an election year. We believe that changes in the method of election and composition of both municipal councils and school boards should be made well in advance of polling day.

Recommendation 9: 2 **The Committee recommends that no changes in the method of election or in the composition of municipal councils or school boards be permitted after January 15th of an election year.**

Filling of Vacancies on Councils and School Boards

Municipal Councils

Under sections 45 and 46 of the Municipal Act, a municipal council is required to fill a vacancy by appointment or by election, except in the period after March 31st of an election

year, after which time a municipal council must appoint. Section 46(3) provides that a vacancy which occurs less than 46 days prior to nomination day for a regular election need not be filled.

Sections 45 and 46 of the Act do not impose any time limits on the council to fill a vacancy, except if the vacancy occurs after March 31st of an election year, in which case the council has 45 days to fill the vacancy. All Regional Acts, except the Regional Municipality of Niagara Act, have an identical provision, with the exception that the successor must be eligible to be elected a member of the regional council rather than a person who is on the local council or eligible to be a member of the local council. Although most councils fill vacancies, it is possible for a seat to remain vacant. For example, one township, a few years ago, left a council position vacant for almost a year.

School Boards

Under sections 198 to 203, inclusive, of the Education Act, vacancies on school boards may be filled either by appointment or election, except in situations where the elections of a board are held under the Municipal Elections Act, and if a vacancy occurs on or before March 31st of an election year, the board may fill the vacancy by election. Section 203 of the

Education Act provides that, where a vacancy occurs on a board within one month of the next ensuing election, it is not filled.

The Act also places tim[illegible]on boards with respect to the filling of vacancies. [illegible] a board chooses to fill a vacancy by appointment, it must do so at the first regular meeting after the vacancy occurs. To call a new election, the legislation requires the board to pass a resolution directing the municipal clerk to hold a new election under the provisions of section 92 of the Municipal Elections Act. The Education Act is silent as to when such a resolution is passed. One can only assume that such action is taken at the first regular meeting after the vacancy occurs.

At both the federal and provincial levels, vacancies are filled by elections. Across Canada, most municipal councils are required to fill vacancies by election. Unlike the senior levels of government, municipalities in a few provinces, including Ontario, also have the option of appointing councillors to fill vacancies under certain circumstances.

The Committee believes that, in view of the three-year term, and in order to strengthen the importance of local government institutions, any vacancy occurring during the first two years

should be filled by an election; however, if a vacancy occurs in an election year, it may be filled by appointment or by election. The Committee is of the view that the legislation should provide clear time limits as to when municipal councils or school boards decide to fill a vacancy. Also, we believe that if a vacancy occurs within 120 days of a regular election, it should not be filled.

Recommendation 9: 3 **The Committee recommends that, if a vacancy occurs in the office of a local member of council, an elected regional councillor or a school trustee during the first two years of office, the local council or school board be required, within 60 days after the vacancy occurs, to declare the seat vacant and to pass a by-law or resolution directing the municipal clerk to hold a new election under section 92 of the Municipal Elections Act.**

Recommendation 9: 4 **The Committee recommends that, where a vacancy occurs in the office of a local member of council, an elected regional councillor or a school trustee in an election year, the local council or school board be required, within 60 days after the vacancy occurs, to declare the seat vacant and to pass a by-law or a resolution, directing the municipal clerk to hold a new election under section 92 of the Municipal Elections Act, or to fill the vacancy by appointment, unless**

the vacancy occurs less than 120 days prior to polling day in an election year, in which case the vacancy need not be filled.

Plebiscites and Referenda

Both plebiscites and referenda are methods of submitting a matter of importance to the direct vote of the electors. A plebiscite is a means of facilitating an expression of opinion by the people on a general course of action proposed by the government. According to one authority[1], the results of a plebiscite are not legally binding on the government, although there may be a political and a moral obligation to respect the result. The term "referendum" has a similar meaning, except that a referendum is generally an established constitutional procedure for submitting measures to a direct vote of the people.

The main difference between the two voting devices is as follows. The term "referendum" embodies an inherent right whereby the people can adopt, reject or act on a measure which has been, or is about to be, passed by a legislative authority and which, in most cases, would, without action on the part of the people, become a law. The results of a referendum, therefore, automatically bind a government to act, or to refrain from acting, according to the wishes of the people. By contrast, the term "plebiscite" embodies not a right of the

people but a choice which lies exclusively with the government of the day as to whether the subject matter should even be submitted to a vote of the people. A plebiscite, therefore, is essentially a public opinion poll and does not impose any constitutional/legal duty on the government of the day to act.

There are approximately 33 references to votes of the municipal electorate in Ontario statutes. A number of these provisions require municipal councils to have the assent of the electorate before taking action. For example, the assent of the electorate is required for changes in the composition of some city, town, village, or township councils. The assent of the municipal electorate is required for the establishment and dissolution of public utilities' commissions. In some circumstances, municipal councils are required to put a question on the ballot, if they are so directed by the Ontario Municipal Board, for annexation, amalgamation, or dissolution, or if they are petitioned by electors, for example, for matters relating to liquor or fluoridation of drinking water.

The terminology used for putting a question on the ballot varies considerably and it is confusing to the electorate. The Liquor Licence Act refers to plebiscites, but the Municipal Act refers to the assent of the electors, municipal questions and votes of the electorate. We feel that the legislation should be amended to provide a common terminology and clarification as

to what is a mandatory or a permissive question. A municipal council's general power for submitting a municipal question to its electors is found in section 208, paragraph 25 of the Municipal Act. The paragraph reads as follows: "For submitting to the vote of the electors any municipal question not specifically authorized by law to be submitted."

The Municipal Act does not define what constitutes a "municipal question". Case law appears to have given the term "municipal question" both a narrow and a broad interpretation. A municipal question could be one that (a) is within the legislative competence of the municipal council; (b) involves the expression of the views of the municipal electors on a matter over which the municipal council proposes to apply for legislative power; and (c) does not involve matters which are the prerogative of other jurisdictions including the provincial and federal governments.

Questions that do not fall within the scope of municipal jurisdiction cannot be put on the municipal ballot. School board issues cannot be put on the ballot. Some school trustees' associations have requested that school boards be granted legislative authority to place questions pertaining to education issues on the ballot. To the best of our knowledge, the only province which permits this is the Province of New Brunswick, on the condition that the Minister of Education

approves the question. The Committee wishes to have further input in this area before making any recommendation.

Sharing of Costs

Under the provisions of section 8 of the Municipal Elections Act, the costs of a regular election are borne by the municipality, except in cases where a new election is held, in which case the costs are paid by the jurisdiction concerned, i.e., municipal council or school board. On a number of occasions in the past, the Association of Municipalities of Ontario has passed resolutions calling for school boards to share in the cost of conducting the elections. We share this view and feel that school boards should contribute towards meeting the expense of running a regular election.

Recommendation 9: 5 **The Committee recommends that the costs of conducting a regular election be borne equally by the municipalities and the school boards.**

Separate Elections for School Boards

A few submissions to the Committee suggested that consideration be given to holding school trustees' elections at a different time from municipal councillors' elections. The reasons provided were that more attention would be paid by the

electorate to school board issues and that it would result in better media coverage. The disadvantages of separate elections are that they would increase the cost of the elections and would create additional work for municipal staff. Ministry of Education officials and representatives from the Ontario School Trustees' Council who met with the Committee rejected the idea. The Committee wishes to have further input, prior to considering any recommendation in this regard.

Remuneration and Pensions for Elected Local Government Officials

Under the provisions of section 238 of the Municipal Act, municipal councils are permitted to establish their own levels of remuneration. Municipal councils may also participate in the Ontario Municipal Employees Retirement System (OMERS). It was suggested to the Committee that the present remuneration levels and pensions received by municipal councillors are inadequate and that the consequence is that a number of good people are lost from council. It was also noted that members of council may be better off putting the maximum amount allowed into a Registered Retirement Savings Plan rather than contributing to OMERS. OMERS is designed to reward long-term employees and does not fit the needs of municipal politicians with short tenure in office. For example, if a retiring municipal politician is 60 years of age or over, he/she

receives pension benefits from OMERS; if he/she has served on council for less than 10 years, any pension contributions are returned; but if a municipal politician falls between the two categories, he/she is locked into the system. The present system does not meet the needs of councillors, whose average stay in office is too short, and particularly of those who may not have jobs to return to when they are no longer in office. Similar concerns have also been expressed with regard to the remuneration received by school trustees and public utilities' commissioners.

Recommendation 9: 6 **The Committee recommends that the Ministry of Municipal Affairs, in cooperation with the Ministry of Education, the Association of Municipalities of Ontario, the Ontario School Trustees' Council and the Municipal Electric Association, continue its efforts to effect improvements in remuneration and pension provisions for elected local government officials.**

TABLE 1

FILLING OF VACANCIES ON MUNICIPAL COUNCILS

Jurisdiction	Method of Filling Vacancies (Generally)					
	Appointment			Election		
	Office of Head of Council	Office of Councillor	if appointment, timing	Office of Head of Council	Office of Councillor	if election, timing
Alberta	X	-	forthwith	-	X	-
British Columbia						
a. Generally	-	-	-	X	X	nominations between 30 and 45 days after vacancy; election on 3rd Saturday after nominations
b. Vancouver	-	-	-	-	-	-
Manitoba						
a. Generally	-	-	-	X	X	within 6 weeks after vacancy
b. Winnipeg	-	-	-	X	X	within 6 weeks after vacancy
New Brunswick	-	-	-	X	X	-

X: yes
-: no

TABLE 1

FILLING OF VACANCIES ON MUNICIPAL COUNCILS

Jurisdiction	Method of Filling Vacancies (Generally)					
	Appointment			Election		
	Office of Head of Council	Office of Councillor	if appointment, timing	Office of Head of Council	Office of Councillor	if election, timing
Newfoundland						
a. Generally	-	-	-	X	X	within 3 months after vacancy
b. St. John's	-	-	-	X	X	within 6 months after vacancy
c. Cornerbrook	-	-	-	X	X	within 3 months after vacancy
Northwest Territories						
a. Present	x	x	-	-	-	-
b. Proposed	x	x	-	X	X	-
Nova Scotia	-	-	-	X	X	council must name day for special election within 4 weeks after vacancy; election day must be a Saturday between 5 and 8 weeks after council meeting

TABLE 1

FILLING OF VACANCIES ON MUNICIPAL COUNCILS

Jurisdiction	Method of Filling Vacancies (Generally)					
	Appointment			Election		
	Office of Head of Council	Office of Councillor	if appointment, timing	Office of Head of Council	Office of Councillor	if election, timing
Ontario	X	X	-	X	X	nominations within 45 days after council passes by-law to require election; election between 18 and 21 days after nominations
Prince Edward Is.						
a. Communities	-	-	-	X	X	special election meeting within 60 days after vacancy
b. Towns	-	-	-	X	X	within 60 days after vacancy
Quebec						
a. Present	-	-	-	X	X	-
b. Proposed	-	-	-	X	X	on a Sunday within 67 days after notice of vacancy or after by-election ordered

TABLE 1

FILLING OF VACANCIES ON MUNICIPAL COUNCILS

Jurisdiction	Method of Filling Vacancies (Generally)					
	Appointment			Election		
	Office of Head of Council	Office of Councillor	if appointment, timing	Office of Head of Council	Office of Councillor	if election, timing
Saskatchewan a. Urban Municipalities and Northern Municipalities (except Northern Settlements	-	-	-	X	X	-
b. Northern Settlements	-	-	-	X	-	-
c. Rural Municipalities	-	-	-	X	X	-
Yukon Territory	-	-	-	X	X	nominations between 30 and 45 days after vacancy; election on 3rd Thursday after nominations

ENDNOTES

1. Boyer, P.J., Lawmaking By The People: Referendums and Plebiscites in Canada. Toronto; Butterworths, 1982.

SUMMARY OF RECOMMENDATIONS AND PROPOSED MUNICIPAL ELECTORAL PROCESS

Summary of Recommendations

Chapter One

No Recommendations.

Chapter Two

Recommendation 2: 1 The Committee recommends that all provisions pertaining to the municipal electoral process be consolidated within the Municipal Elections Act, and that its language be updated and modernized.

Recommendation 2: 2 The Committee recommends that the Government of Ontario establish a commission, tentatively named the Ontario Municipal Elections Commission, composed of:

(a) one nominee from each of the Association of Municipalities of Ontario, the Ontario School Trustees' Council; the Municipal Electric Association; and the Association of Municipal Clerks and Treasurers of Ontario, appointed for a five-year term by the Lieutenant Governor in Council on

the advice and recommendation of their respective Boards of Directors. The nominees of each association shall be private citizens. Re-appointments may be made for one additional term;

(b) a member of the Law Society of Upper Canada, appointed by the Lieutenant Governor in Council for a five-year term, and who may be reappointed for one additional term;

(c) the Chief Election Officer of Ontario, who shall be an ex-officio member;

(d) the Chairman of the Commission of Election Finances (Ontario), who shall be an ex-officio member;

(e) one person, who shall be a private citizen, appointed by the Lieutenant Governor in Council on the advice and recommendation of the Minister of Education, for a five-year term and who may be reappointed for one additional term; and

(f) a Chairman, who shall be a private citizen, appointed by the Lieutenant Governor in Council on the advice and recommendation of the Minister of Municipal Affairs, for a five-year term and who may be reappointed for one additional term.

Recommendation 2: 3 The Committee recommends that the members of the proposed Commission, except those who are ex-officio members, be paid per diem allowances, with the exception of the Chairman, who shall receive a salary.

Recommendation 2: 4 The Committee recommends that the members of the proposed Commission shall not, during their term of office, hold any elected or appointed municipal, school board, or public utility office.

Recommendation 2: 5 The Committee recommends that the powers and duties of the proposed Commission include:

(a) the general administration of the municipal electoral process;

(b) assisting and advising returning and revising officers;

(c) coordinating the training of election officials;

(d) producing publications to assist election officials in discharging their duties and responsibilities;

(e) conducting studies on the municipal electoral process;

(f) producing publications to assist the public to become more aware of local government;

(g) producing publications to assist candidates and newly elected councillors; and

(h) organizing meetings and conferences for the information of election officials, municipalities and the public.

Recommendation 2: 6 The Committee recommends that, upon the advice and recommendation of the Minister of Municipal Affairs, the Lieutenant Governor in Council appoint a person, who is employed in the Ontario public service, to the position of Municipal Elections Officer, and Secretary of the proposed Commission.

Recommendation 2: 7 The Committee recommends that the duties and responsibilities of the Municipal Elections Officer include:

(a) direction and supervision of the administrative conduct of elections; and

(b) issuing to returning officers such instructions as are considered necessary to assist in the effective execution of the provisions of the legislation.

Recommendation 2: 8 The Committee recommends that municipal clerks continue to be the returning and revising officers.

Recommendation 2: 9 The Committee recommends that adequate human and financial resources for the operation of the proposed Commission be provided by the Ministry of Municipal Affairs.

Recommendation 2: 10 The Committee recommends that the proposed Commission and the Ministry of Municipal Affairs, in cooperation with the Association of Municipal Clerks and Treasurers of Ontario, develop a manual for the training of election staff, a course on the conduct of elections and other training tools, including both printed material and audio-visual presentations.

Recommendation 2: 11 The Committee recommends that the proposed Commission establish guidelines respecting the recruitment of municipal election staff.

Recommendation 2: 12 The Committee recommends that the proposed Commission, in cooperation with both the Chief Electoral Officer of Canada and the Chief Election Officer of Ontario, study the feasibility of establishing coterminous polling divisions.

Recommendation 2: 13 The Committee recommends that the Municipal Elections Act be amended to require the municipal clerk to divide the municipality into polling subdivisions and to inform the Regional Assessment Commissioner of the boundaries of each subdivision no later than the 15th day of January in an election year.

Recommendation 2: 14 The Committee recommends amending the legislation in order to provide that the returning officers may use a second shift of poll personnel to assist in the counting of ballots.

Recommendation 2: 15 The Committee recommends that the proposed Commission and the Chief Election Officer of Ontario study the use, acquisition and financing of automated voting systems and counting equipment for general use in private and public elections in Ontario and that guidelines be established for those who wish to participate.

Chapter Three

Recommendation 3: 1 The Committee recommends that the proposed Commission, and the Ministries of Municipal Affairs and Revenue, in cooperation with the Chief Election Officer of Ontario, give further study to the concept of a permanent voters' list.

Recommendation 3: 2 The Committee recommends that the preliminary list of electors, as revised, be the final polling list, and except as provided by sections 33 and 51 of the Municipal Elections Act, no person shall be entitled to vote at a municipal election unless his/her name appears on the revised polling list.

Recommendation 3: 3 The Committee recommends that enumerations take place between May 15th and June 30th of an election year; that the preliminary lists of electors be delivered by the assessment commissioners to the municipal clerks on July 2nd; and that the revision period begin on August 15th and end on September 15th.

Recommendation 3: 4 The Committee recommends that the proposed Ontario Municipal Elections Commission and the Ministry of Revenue undertake a publicity campaign to inform the public of the changes and requirements proposed in Recommendation 3: 2.

Chapter Four

Recommendation 4: 1 The Committee recommends that the Municipal Elections Act be amended to clarify the meaning of the term "person" and to exclude specifically a corporation, any representative of an estate, or trustee.

Recommendation 4: 2 The Committee recommends that section 1, paragraph 34, of the Municipal Elections Act be amended by adding immediately following clause (b) thereof, the following clause:

"(c) No person shall be deemed to be resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April, unless,

(i) he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or

(ii) he has no quarters in any other municipality to which he might at will remove".

Recommendation 4: 3 The Committee recommends that Option D be implemented, namely, that a person be eligible to vote in a municipal election if he/she on polling day:

(a) is a Canadian citizen;

(b) has attained 18 years of age;

(c) has resided in the municipality for the six months immediately preceding polling day;

or, if non-resident, he/she

(d) is an owner or tenant of land in the municipality, or the spouse of such owner or tenant, and meets the requirements of age and citizenship; and

(e) has been the owner or tenant, or the spouse of such owner or tenant, for the six months immediately preceding polling day.

Recommendation 4: 4 The Committee recommends that the conditions for running for municipal office be strengthened by requiring a candidate in a municipality with a population of over 20,000

(a) for the office of head of council, to deposit the amount of $200 at the time at which his/her nomination papers are filed with the municipal clerk; and

(b) for all other offices, to deposit an amount of $100 at the time at which his/her nomination papers are filed with the municipal clerk,

with the proviso that all deposits be automatically refunded to all candidates who receive at least 20 per cent of the total number of votes cast for each of the offices involved, and who have filed their statements of campaign contributions and expenses with the municipal clerk; and with the further proviso that all other deposits be retained by the municipality.

Recommendation 4: 5 The Committee further recommends that the nomination papers for a candidate in a municipality with a population of over 20,000, be signed by

(a) at least 100 electors for those running for the office of head of council; and
(b) at least 50 electors for all those running for all other offices.

Recommendation 4: 6 The Committee recommends that a candidate in a municipality with a population of less than 20,000 be required,

(a) if running for the office of head of council, to deposit an amount of $100 at the time at which his/her nomination papers are filed with the municipal clerk; and

(b) if running for any other office, to deposit an amount of $50 at the time at which his/her nomination papers are filed with the municipal clerk,

with the proviso that all deposits be automatically refunded toall candidates who receive at least 20 per cent of the total number of votes cast for each of the offices involved, and have filed their statements of campaign contributions and expenses with the municipal clerk; with the further proviso that all other deposits be retained by the municipality.

Recommendation 4: 7 The Committee further recommends that nomination papers for a candidate in a municipality with a population of less than 20,000 be signed by

(a) at least 50 electors for a candidate for the office of council; and

(b) at least 25 electors for a candidate for any other office.

Recommendation 4: 8 The Committee recommends that a person seeking municipal elected office, be it that of head of council, member of council, school board trustee, or public utilities' commissioner, be a qualified elector of the jurisdiction involved and be required to maintain his/her qualifications during the term of office.

Recommendation 4: 9 The Committee further recommends that, in the event that a municipal elected official fails to maintain his/her qualifications throughout the term of office, his/her seat be deemed vacant.

Chapter Five

Recommendation 5: 1 The Committee recommends that the Municipal Elections Act be amended to authorize municipalities and school boards to pass a by-law or a resolution, respectively, to provide tax credits for contributors to municipal election campaigns, and that the legislation be modelled on the Election Finances Act (Ontario).

Recommendation 5: 2 The Committee recommends that the Commission on Election Finances (Ontario) be responsible for the administration of the proposed municipal tax credit system.

Recommendation 5: 3 The Committee recommends that the cost of the proposed municipal tax credit system be borne by the participating municipalities and school boards, and that such funds be deducted by the Province from the participants' transfer payments.

Recommendation 5: 4 The Committee recommends that the proposed enabling legislation for municipal tax credits provide for a

campaign donation period commencing six months prior to polling day and ending six months after polling day.

Recommendation 5: 5 The Committee recommends that any person seeking municipal office in a municipality or school board which has elected to provide tax credits for campaign donations be required to register with the Commission on Election Finances (Ontario) no earlier than six months prior to polling day and no later than nomination day.

Recommendation 5: 6 The Committee recommends that a person registered with the Commission be permitted to issue receipts for tax credits during the proposed campaign donation period.

Recommendation 5: 7 The Committee recommends that the Commission be authorized to extend the campaign donation period proposed in recommendation 5: 4 for any candidate who shows cause, for any period which the Commission deems appropriate.

Recommendation 5: 8 The Committee recommends that all invoices for campaign expenses be required to be submitted to candidates within three months of polling day.

Recommendation 5: 9 The Committee recommends that the amounts contributed to any one candidate during the proposed campaign donation period by an individual, corporation or other entity

be limited to monies or services totalling $750 in value and to an aggregate of not more than $3,000 for all candidates in the jurisdiction.

Recommendation 5: 10 The Committee recommends that campaign expenses be limited to $5,500 for candidates for head of council and $3,500 for all other candidates, plus, for all candidates, an additional $0.40 per elector in a municipality with 1,001 to 20,000 electors; $0.50 per elector in a municipality with 20,001 to 100,000 electors; or $0.45 per elector in a municipality with more than 100,000 electors.

Recommendation 5: 11 The Committee recommends that the Commission on Election Finances (Ontario) subsidize the cost of auditing municipal candidates' financial statements.

Recommendation 5: 12 The Committee recommends that any candidate for municipal office be required to file an audited report of his/her election campaign contributions and expenses with the Commission on Election Finances (Ontario) with a copy to the municipal clerk within six months after polling day, unless the Commission has granted an extension.

Recommendation 5: 13 The Committee recommends that a candidate who fails to file a report of election campaign contributions and expenses forfeit his/her deposit; be immediately

disqualified from office, if elected; and be ineligible to seek or hold municipal office for a period of six years from the date of the poll.

Recommendation 5: 14 The Committee recommends that any surpluses be turned over to the municipality or school board.

Recommendation 5: 15 The Committee recommends that all municipal candidates be required to disclose their election campaign contributions and expenses within six months after polling day.

Recommendation 5: 16 The Committee recommends that section 121 of the Municipal Elections Act be amended to require that municipal candidates in municipalities without a tax credit system disclose and report their campaign contributions and expenses.

Recommendation 5: 17 The Committee further recommends that section 121 of the Municipal Elections Act be amended to provide that contributions to any individual candidate in any year be limited to monies, goods or services totalling $750 in value.

Recommendation 5: 18 The Committee recommends that recommendations 5: 8, 5: 10 and 5: 13 apply to all municipal candidates.

Chapter Six

Recommendation 6: 1 The Committee tentatively recommends that Option C be implemented, namely, that polling day be the third Tuesday in October; that the mandatory advance poll be held on the Saturday ten days before polling day; and that nomination day be the Monday 29 days before polling day.

Recommendation 6: 2 The Committee recommends that no change be made to the date of assumption of office.

Recommendation 6: 3 The Committee recommends that the Municipal Elections Act be amended to require a municipal council, upon the receipt of a petition containing the signatures of 200 electors or more, at least 30 days before nomination day, to pass a by-law before nomination day directing the municipal clerk to hold an additional advance poll.

Recommendation 6: 4 The Committee recommends that polling hours for both regular and advance polls be 11:00 a.m. to 8:00 p.m.

Recommendation 6: 5 The Committee further recommends that municipalities be authorized to pass a by-law, at least three

months prior to polling day, to set the polling hours for both the regular and advance polls at 9:00 a.m. to 8:00 p.m.

Recommendation 6: 6 The Committee recommends that the application of proxy voting in any municipal election be limited to any elector who on polling day, including advance polls, is:

(a) employed in a business, the nature of which involves long distance travel by railway, air, water, or motor vehicle;

(b) away on business at the employer's direction;

(c) ill or physically incapacitated;

(d) a full-time student duly registered at a recognized educational institution; or

(e) absent from the municipality for personal reasons.

Recommendation 6: 7 The Committee recommends that serious efforts be made by election officials to ensure that polling places are accessible to seniors and the handicapped.

Recommendation 6: 8 The Committee recommends that consideration be given by the Ministry of Education to the

closing of schools on polling day, so that such places could be used as polling places.

Recommendation 6: 9 The Committee recommends that, where necessary, curbside voting be provided.

Recommendation 6: 10 The Committee recommends that the proposed Commission, in cooperation with the Ontario Advisory Council on Senior Citizens and the Ontario Advisory Council on the Physically Handicapped, establish guidelines for accessible polling places.

Recommendation 6: 11 The Committee recommends that municipalities establish advisory committees to assist in the identification and location of accessible polling places.

Recommendation 6: 12 The Committee recommends that the proposed Commission translate the Municipal Elections Act into French and into other languages, where numbers warrant.

Recommendation 6: 13 The Committee recommends that the proposed Commission, in cooperation with the Ministry of Citizenship and Culture and the Ontario Advisory Council on Multiculturalism and Citizenship, translate voter information and instructions, as well as any other publication relating to

the municipal electoral process, into other languages, where numbers warrant, and disseminate the same.

Recommendation 6: 14 The Committee recommends that, where numbers warrant, municipal election officials establish an advisory committee consisting of persons of different linguistic and cultural backgrounds to assist in the dissemination of information with respect to the municipal electoral process.

Recommendation 6: 15 The Committee recommends that, where numbers warrant, election officials hire interpreters to provide assistance to voters of different linguistic backgrounds at the polling places.

Recommendation 6: 16 The Committee recommends that election staff be sensitized to the linguistic and cultural needs of the electors and, where possible, that persons of appropriate linguistic and cultural backgrounds be employed as election staff.

Chapter Seven

Recommendation 7: 1 The Committee recommends that section 59(a) of the Municipal Elections Act, which refers to a cross

or other mark, be amended to refer to a consistent mark, preferably a cross.

Recommendation 7: 2 The Committee recommends that the proposed Commission and the Chief Election Officer of Ontario study the desirability of standardizing the markings on the ballot for both municipal and provincial elections.

Recommendation 7: 3 The Committee recommends that the Municipal Elections Act be amended to provide that recounts be conducted by an Elections Tribunal consisting of persons who are experienced in the conduct of elections; and that the proposed Commission appoint the members of the proposed Tribunal.

Recommendation 7: 4 The Committee recommends that the proposed Commission establish rules to guide the members of the proposed Tribunal and election officials in determining the validity of the ballots.

Recommendation 7: 5 The Committee further recommends that any decision of the proposed Tribunal be subject to a final appeal to the Divisional Court.

Recommendation 7: 6 The Committee recommends that the time limit for an elector, municipal council or school board to make an application for a recount be 30 days after the declaration of results, and further recommends that procedures for recounts be drafted in plain and unambiguous language.

Recommendation 7: 7 The Committee recommends that the costs of recounts conducted by the proposed Tribunal be borne by the jurisdiction involved.

Recommendation 7: 8 The Committee recommends that Formula C be implemented; namely, that where the margin between the winning candidate and the runner up is less than .5 per cent of the votes cast in municipalities with a population of 20,000 or more, or where a spread of less than ten votes exists between the winning candidate and the runner up in a municipality with a population of less than 20,000, a recount will be held at the request of a candidate.

Recommendation 7: 9 The Committee recommends that municipalities and school boards continue to be permitted to request a recount for any office in the public interest.

Recommendation 7: 10 The Committee recommends that any elector continue to be permitted to request a recount by an application

to the proposed Tribunal, supported by an affidavit attesting to an impropriety.

Recommendation 7: 11 The Committee further recommends that the provisions relating to recounts be set out in separate and clear clauses under section 83 of the Municipal Elections Act.

Chapter Eight

Recommendation 8: 1 The Committee recommends that municipalities establish, on a permanent basis, a local government awareness program which meets the needs of the entire electorate.

Recommendation 8: 2 The Committee recommends that the Ministry of Education, in cooperation with the school boards, develop and implement a comprehensive local government education program for use in elementary and secondary schools.

Recommendation 8: 3 The Committee recommends that the proposed Commission, in cooperation with the Office of the Chief Election Officer of Ontario and the Office of the Chief Electoral Officer of Canada, prepare and publish a lexicon of terminology used in the electoral process.

Recommendation 8: 4 The Committee recommends that the proposed Commission, in cooperation with the Office of the Chief Election Officer of Ontario and the Office of the Chief Electoral Officer of Canada, develop public awareness programs relating to the electoral process.

Chapter Nine

Recommendation 9: 1 The Committee recommends that the Legislative Assembly of Ontario not enact any legislation affecting the municipal electoral process within the six months immediately preceding polling day, in an election year.

Recommendation 9: 2 The Committee recommends that no changes in the method of election or in the composition of municipal councils or school boards be permitted after January 15th of an election year.

Recommendation 9: 3 The Committee recommends that, if a vacancy occurs in the office of a local member of council, an elected regional councillor or a school trustee during the first two years of office, the local council or school board be required, within 60 days after the vacancy occurs, to declare the seat vacant and to pass a by-law or resolution directing the municipal clerk to hold a new election under section 92 of the Municipal Elections Act.

Recommendation 9: 4 The Committee recommends that, where a vacancy occurs in the office of a local member of council, an elected regional councillor or a school trustee in an election year, the local council or school board be required, within 60 days after the vacancy occurs, to declare the seat vacant and to pass a by-law or a resolution, directing the municipal clerk to hold a new election under section 92 of the Municipal Elections Act, or to fill the vacancy by appointment, unless the vacancy occurs less than 120 days prior to polling day in an election year, in which case the vacancy need not be filled.

Recommendation 9: 5 The Committee recommends that the costs of conducting a regular election be borne equally by the municipalities and the school boards.

Recommendation 9: 6 The Committee recommends that the Ministry of Municipal Affairs, in cooperation with the Ministry of Education, the Association of Municipalities of Ontario, the Ontario School Trustees' Council and the Municipal Electric Association, continue its efforts to effect improvements in remuneration and pension provisions for elected local government officials.

PROPOSED MUNICIPAL ELECTORAL PROCESS

PHASE I

PREPARATION OF PRELIMINARY LIST OF ELECTORS

STEP 1

ENUMERATION

May 15 - June 30

STEP 2

PRELIMINARY LIST OF ELECTORS

* Delivery of Preliminary List of Electors to Municipal Clerks by July 2

PHASE II

REVISION OF PRELIMINARY LIST OF ELECTORS

STEP 3

CORRECTION/REVISION NOTICE

* Clerks to correct gross or manifest errors and advise Ministry of Revenue

* Printing or reproduction of preliminary list of electors

* Publish notice regarding revision by August 8

STEP 4

BEGINNING OF REVISION PERIOD

August 15

* Clerks to advise Ministry of Revenue of revisions

PHASE III

PREPARATION FOR POLLING DAY

STEP 5	STEP 6	STEP 7	STEP 8
END OF REVISION PERIOD Sept. 15 * Process applications for revisions * Advise Ministry of Revenue of changes	**NOMINATION NOTICE** Post/Publish Notice Calling for Nominations 7 days before Nomination Day	**NOMINATION DAY** **Monday,** 29 days before Polling Day	**POLL PREPARATION** * Preparation of polling list and printing thereof * Printing and checking of ballots * Prepare DROs and Poll Clerks to conduct elections

PHASE IV

ELECTIONS

STEP 9	STEP 10
MANDATORY ADVANCE POLL	**POLLING DAY**
Saturday, 10 days before Polling Day	3rd **Tuesday** in October

PHASE V

POST ELECTIONS

STEP 11	STEP 12
DECLARATION OF RESULTS	**RECOUNTS**
Thursday after Polling Day	Within 30 days after the declaration of the election results

APPENDIX A

PRESENTATIONS MADE TO THE COMMITTEE

Michael O'Dowd, Co-ordinator, Field Operations Branch, Ministry of Revenue

William Kent, President and Lloyd Burton, Chief Executive Officer, Ontario School Trustees' Council

Charles Onley, City Solicitor, City of North York; N. Jane Pepino, Barrister and Solicitor, Aird Berlis; Murray Chusid, Barrister and Solicitor

Michael Smither, Editor and Publisher, Municipal World,

Patricia Petersen, Department of Urban Studies, Innis College, University of Toronto

Mayor Claudette Millar, President; David Barrett, Administrative Vice-President; Bruce D. Bayne, Member-at-large, Board of Directors; and Macdonald Dunbar, Executive Director, Association of Municipalities of Ontario

Ivy St. Lawrence, Chairman, Ontario Advisory Council for Senior Citizens; Ronald McInnes, Chairman, Ontario Advisory Council for the Physically Handicapped; and Mary Tate, Chief Executive Officer for both Advisory Councils

Jean-Marc Hamel, Chief Electoral Officer (Canada); Warren Bailie, Chief Election Officer (Ontario) and Lori Wells, Chief Election Clerk (Ontario)

Fred Bauthus, President; Terrence Julian, Past President; and Gordon Gunning, Executive Director, Association of Municipal Clerks and Treasurers of Ontario; and Gerald Waterall, Chairman; David Crossley, Michael Gazo and Al Pelletier, Members, Elections Sub-Committee, Clerks' Advisory Committee, Association of Municipal Clerks and Treasurers of Ontario

William Rowney, Past President (Ontario Municipal Electric Association); Ralph Nicol, First Vice President; and Charles Macaluso, Research Director, Municipal Electric Association

Nisar Sheraly, Council Member, Ontario Advisory Council on Multiculturalism and Citizenship

William Alexander Jr., Clerk, Borough of East York

Richard Rochefort, Communications Officer, Elections Canada

Donald MacDonald, Chairman; Donald Joynt, Executive Director; and Robert Dobson, Registrar, Commission on Election Contributions and Expenses

Alderman June Rowlands, City of Toronto and Mayor Bruce Sinclair, City of Etobicoke

Luc P. LeBrun, Chief Electoral Officer and Scovil S. Hoyt, Assistant Chief Electoral Officer, Department of Municipal Affairs, Province of New Brunswick

Mayor Jean Pelletier, City of Quebec

Dennis Pakenham, Quebec Ministry of Municipal Affairs

Lincoln Steele, Education Officer and Robert Copeland, Director, Legal Services, Education, Legislation Branch, Ministry of Education

Alderman James McGuffin and Charles Onley, City Solicitor, City of North York

Annamarie P. Castrilli, Barrister and Solicitor, Houser, Henry, Loudon and Syron; Peter Proszanski; and Maria De Pasquale

Alderman John Ranta and Harry T. Kirk, City Clerk, City of Thunder Bay

Ross Sutherland, Executive Assistant, Labour Council of Metropolitan Toronto

Dr. Stewart Fyfe, Professor of Political Science, Queen's University

Charles K. Bens, President, Advanced Municipal Systems

Barbara Sullivan, Executive Assistant to the Treasurer of Ontario

Dr. Ted Humphreys, Stephen Lawton, Richard Townsend and Victoria Grabb, Researchers, Ministry of Education Task Force on School Board Representation; and Marilyn Sullivan, Education Officer, Evaluation and Supervisory Services Branch, Ministry of Education

Appendix B

BRIEFS, SUBMISSIONS, COMMENTS SUBMITTED TO THE COMMITTEE

Individuals

John V. Bulloch
John Carroll
Annamarie P. Castrilli
Stanley Cerisano
Rick Chiarelli
Larry D. Cotton
Maria De Pasquale
George H. Duncan
E.S. Eaton
Sandra Enns
Florence Gell
Evelyn Gigantes, M.P.P., Ottawa Centre
Bob Good
Bill Hendry
Irene Jones
James W. Jones
R.J. Jordan
Richard Lanthier
Evelyn Larson
Angelo M. Lebano
Rebecca Liff
Ron MacSpadyen
Dylan C. McGuinty
Sannie McInnis
Bill Mole
Dollie R. Moulden
Lew E. Oakley
Alan M. Oleksuik
M. Isabella O'Shea
Richard Outram
John A. Parente
Joseph M. Peckham
N. Jane Pepino
Patricia Petersen
William F. Rannie
Dr. A.K. Ray, D.Sc.
Jean Pierre Rivet
Paul Roy
Verne Rumney
W.D. Russell
M.L. Sammon
John B. Sampson
Borden Scullion
Lola Shirran
Linda Stewart
William J.C. Stubbs
Don E. Tremblay
Howard Watson
Donald Wild
Louis Ziff

Municipalities

Township of the Archipelago
Lynda M. Healey, Chief Administrative Officer

Township of Bangor, Wicklow & McClure
Donald C. Bloor, Clerk-Treasurer

City of Barrie
Helen L. Foster, Deputy City Clerk

City of Belleville
Kerry J. Soden, Alderman

City of Brantford
W.A. Coulson, Clerk

Township of Bromley
Reeve Clarence McBride and Council Members

City of Burlington
Ronald C. Lathan, Deputy Clerk
Helen MacRae, Clerk
and Director of Administrative Services
Yvonne Roach, Alderman, Ward 6
Michael H. Boggs, Chief Administrative Officer

Township of Camden
Carl McFadden, Clerk

Township of Conmee
Karen Jacobsen, Clerk-Treasurer

Township of Cockburn Island
Austin Clipperton, Clerk-Treasurer

City of Cornwall
Brian Lynch, Mayor

Township of Cumberland
Peter D. Clark, Mayor

Town of Dundas
J. Robert Gerrie, Clerk

Town of Elliot Lake
L. Burling, Clerk

Township of Elma
George S. Tucker, Clerk-Treasurer

Municipalities - Continued

Township of Erin
R.M. Clarke, Clerk

City of Etobicoke
R.S. Gillespie, Deputy City Clerk

Town of Flamborough
R. Gordon Stewart, Clerk

Township of Georgina
Larry Simpson, Clerk

Township of Glanbrook
Craig Switzer, Clerk

Town of Haldimand
Norman E. Smyth, Clerk

Township of Hallowell
M.G. MacDonald, Clerk-Treasurer

Regional Municipality of Halton
David J. Varley, Regional Clerk

Town of Hanover
Gerald B. Kueneman, Clerk-Treasurer

United Townships of Head, Clara & Maria
J. Ernest Boudreau, Reeve

Town of Hearst
Louis Corbeil, Clerk

City of Kanata
J. Desmond Adam, Mayor
Frank Wilson, Clerk

City of Kitchener
R.W. Pritchard
Commissioner of General Services & City Clerk

Town of Lincoln
Michael F. Duc, Clerk

Town of Longlac
Jane Jantunen, Clerk-Treasurer

Twp. of McKellar
Roberta M. Hurd, Clerk-Treasurer

Municipalities - Continued

Town of Milton
William Roberts, Clerk

City of Mississauga
Ted Southorn, Councillor, Ward 9

District Municipality of Muskoka
Allen Sander, Chairman

Township of Muskoka Lakes
S. Faye Tibbel, Deputy Clerk

City of Nepean
D.E. Hobbs, Clerk

City of Niagara Falls
Paul J. Brennan, Clerk

Regional Municipality of Niagara
William D. Dickson, Regional Councillor

Town of Nickel Centre
Maureen Cleroux, Clerk

Township of Nipissing
C.H. Barton, Clerk-Treasurer

Twp. of Norfolk
R.A. Loncke, Clerk-Administrator

City of North Bay
Bonny Harrison, Deputy Clerk

Township of North Dorchester
Clyde Walton, Clerk-Administrator

City of North York
E. Roberts, Clerk

Twp. of Oro
Robert W. Small, Administrator-Clerk

Town of Orangeville
R.M. Prentice, Clerk

City of Ottawa
J.R. Cyr, Clerk

Municipalities - Continued

Town of Parry Sound
Nancy Cunningham, Councillor

Township of Petawawa
Donald W. Brumm, Clerk

Township of Puslinch
Archie MacRobbie, Reeve

City of St. Catharines
Thomas A.W. Derreck, Clerk

City of Scarborough
J.W. Nigh, Clerk

Township of South Dumfries
G. Silverthorn, Clerk-Treasurer

United Counties of Stormont, Dundas & Glengarry
R.J. Lapointe, Administrator & Clerk-Treasurer

Town of Sturgeon Falls
Gary C. O'Connor, Deputy Mayor

Township of Tilbury North
M. Daniel Perdu, Clerk-Treasurer

City of Toronto
Jack G. Layton, Alderman, Ward 6

City of Thunder Bay
H.T. Kirk, Clerk

Township of Usborne
Sandra J. Strang, Acting Clerk-Treasurer

Town of Valley East
Diane Trottier, Deputy Clerk

Town of Wasaga Beach
Velma Longworth, Councillor

City of Waterloo
Ron Keeling, Clerk

Township of Westminster
Robert M. Malpass, Administrator, Clerk-Treasurer

Municipalities - Continued

Township of Wilberforce
Bernice Thur, Clerk-Treasurer

City of Windsor
J.B. Adamac, Acting City Clerk

City of York
C. Rodrigo, Clerk
Philip White, Controller

School Boards

Dufferin-Peel Roman Catholic Separate School Board
Robert F. Hall, Chairman of the Board

Hamilton Board of Education
Marjorie Baskin, Trustee, Ward 1

Lake Superior Board of Education
P. Richardson, Chairman

City of North York Board of Education
Errol Young, Trustee, Ward 5

Ottawa Board of Education
Kathy Yach, Trustee

Peel Board of Education
Margaret McKee, Chairman

Toronto Board of Education
Irene Atkinson, Trustee, Ward 2

Toronto Board of Education
Nola Crewe, Trustee and Vice Chair, Ward 8

York Region Board of Education
Michael Neill, Trustee

Local Government Associations

The Association of Large School Boards in Ontario
Lorraine Flaherty, Executive Director

Association of Municipal Clerks and Treasurers of Ontario
Fred Bauthus, President

Advisory Committee of Municipal Clerks
Association of Municipal Clerks and Treasurers of Ontario
Gerry A. Waterall, Chairman
Michael B. Gazo, Secretary

Association of Municipal Clerks and Treasurers of Ontario
Carol D. Church, Secretary-Treasurer, Zone 5

Association of Municipalities of Ontario
Claudette Millar, President

The Northern Ontario School Trustees' Association
Carl Petrone, President

Ontario Public School Trustees' Association
William J. Phillips, Executive Director

Ontario School Trustees' Council
Lloyd G. Burton, Administrative Coordinator
William Kent, Chairman

Organization of Small Urban Municipalities Section of AMO
B.W. Baxter, Secretary

Other Groups

Advisory Council on Multiculturalism and Citizenship
Hanny Hassan, Vice-President

Canterbury Community Association
Wayne Bond, Chairman, Civic Affairs Committee

Eels Lake Cottagers' Association
W.N. Duncan, President

Federation of Ontario Cottagers' Associations Inc.
Rejeanne S. Anthon, President

Go Home Bay Association
Caroline Duncanson, President

Handicapped Action Group Inc.
Ron Ross, Co-Executive Director

Labour Council of Metropolitan Toronto,
Michael Lyons, President
Ross Sutherland, Executive Assistant

Miskwabi Area Cottagers' Association Inc.
J.G. Strickland, President

North Kahshe Lake Ratepayers' Association Inc.
W.R. Edwards, President

North Sound Association
J. McEwen, President

Rankin Lake Property Owners' Association Inc.
L. Thor Eklund, Vice-President

Shawano Cottagers' Association
Grant Boundy, President

Skeleton Lake Association
R.B. Frewin, President

South Charlotte Area Residents' Association
The Executive

Waterloo Regional Labour Council
Alan Pickersgill, Recording Secretary

APPENDIX C

LIST OF MINISTRY OF MUNICIPAL AFFAIRS STAFF MEMBERS PROVIDING ASSISTANCE TO THE COMMITTEE

Eric Fleming, Assistant Deputy Minister, Municipal Affairs

Alan Dewar, Director, Provincial-Municipal Affairs Secretariat

David K. Martin, Manager, Organization Policy Section,
Local Government Organization Branch

Lynne Peterson, Policy Advisor, Organization Policy Section,
Local Government Organization Branch

Bernice Morrison, Management Policy Advisor, Administrative
Management Section, Municipal Management Policy Branch

Heather Adams, Coordinator, Programs, Head Office,
Field Services Branch

Jim Ayres, Solicitor, Municipal Affairs, Legal Services Branch

Nigel Atkin, Coordinator, Municipal Affairs,
Communications Branch